



California Regulatory Notice Register

REGISTER 2007, NO. 40-Z

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson West.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

STATE AGENCY: Victim Compensation and Government Claims Board

A written comment period has been established commencing on **October 5, 2007**, and closing on **November 19, 2007**. Written comments should be directed to the Fair Political Practices Commission, Attention **Ashley Clarke**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **November 19, 2007**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

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AMENDMENT

STATE AGENCY: Department of Forestry and Fire Protection

MULTI-COUNTY: Corcoran Unified School District

A written comment period has been established commencing on **October 5, 2007**, and closing on **November 19, 2007**. Written comments should be directed to the Fair Political Practices Commission, Attention **Ashley Clarke**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **November 19, 2007**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

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Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation at a public hearing on or after November 8, 2007, at approximately 10:00 a.m. Written comments must be received at the Commission offices no later than 5:00 p.m. on November 6, 2007.

BACKGROUND/OVERVIEW

Under current law, state candidates and officeholders may establish a legal defense fund under Government Code Section 85304 to defray attorney's fees and other legal costs incurred in defense of a civil, criminal, or administrative proceeding arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officeholder's governmental activities and duties. Contributions raised for a legal defense fund are not subject to contribution limits or the voluntary expenditure ceiling.

The proposed amendments clarify the Commission's legal defense funds regulations regarding the establishment, use, and termination of legal defense fund accounts. Proposed language also specifies recordkeeping and auditing rules applicable to legal defense committees.

REGULATORY ACTION

The Commission will consider amending 2 Cal. Code of Regs. Section 18530.4 by including the following provisions:

1. Establishing the Legal Defense Account and Controlled Committee. The regulation currently requires candidates and officers who raise legal defense funds to deposit the funds in a bank account separate from their campaign account and establish a controlled committee by filing a statement of organization (Form 410) under

Government Code Section 84101. The proposed amendments require the controlled committee's statement of organization to contain a description of the specific legal dispute or disputes for which the account is established, amendment of the statement of organization as legal disputes are either resolved or initiated, and inclusion of the candidate's or elected state officer's last name in the committee name. The new requirements allow staff and the public to determine whether a candidate or officer has created a legal defense account for a proper purpose, and to determine the identity of the candidate or officer creating the account.

2. Required Recordkeeping and Audits. Staff proposes language providing that a candidate, treasurer, and officer are subject to recordkeeping requirements under Government Code Section 84104. The proposed amendments require that any mandatory audit of a candidate or officer conducted under the Act include that candidate's or officer's legal defense committee if maintained during the same audit period. The filer is also required to keep separate detailed accounts, records, bills, and receipts, for each legal dispute.

3. New Filing Schedule. Regulation 18530.4(b) currently requires a legal defense committee to file quarterly campaign statements. Staff proposes new language requiring candidates and officers filing campaign statements and reports pursuant to Chapters 4 and 5, of Title 9 of the Government Code to file statements at the same time and place the candidate or officer would be required to file statements for any other controlled committee.

4. Limitations on Use of Legal Defense Funds. Staff proposes new language defining the circumstances under which legal defense funds may be raised by requiring that the amount raised be no more than reasonably calculated to pay for "attorney's fees and other related legal costs." Proposed amendments also describe the types of legal actions for which funds may be raised and when legal defense funds may be raised.

5. Disposition of Remaining Funds. Remaining funds in a legal defense account are currently disposed of under requirements in Government Code Section 89519(b)(1) through (b)(5). Staff proposes new language requiring a candidate or officer who raises more than \$5,000 above the actual costs, to return the remaining funds on a pro rata basis to contributors. Otherwise the remaining funds may be distributed under Government Code Section 89519(b)(1) through (b)(5).

6. Termination and Reopening of Committees. Government Code Section 85304(c) requires the termination of a legal defense account "after all expenses associated with the dispute are discharged." Staff proposes new language requiring the termination of a legal defense account within 90 days of the date all legal disputes for which the account is established are resolved.

Proposed amendments also specify requirements for extension of the termination date or reopening of an account.

The Commission may also apply some of these rules to local candidates and officers pending legislation that may be signed into law prior to adoption of this regulation.

All other modifications to the regulation are intended to be technical or clarifying.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of these regulations is to implement, interpret, and make specific Government Code Section 85304.

CONTACT

Any inquiries should be made to Emelyn Rodriguez, Counsel, Legal Division, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.html?id=351>.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation at a public hearing on or after November 8, 2007, at 10:00 a.m. Written comments must be received at the Commission offices no later than 5:00 p.m. on November 6, 2007.

BACKGROUND/OVERVIEW

Government Code Section 85303 was added to the Political Reform Act by Stats. 2000, Ch. 102 (Proposition 34 of the November 1996 General Election), and was later amended by Stats. 2001, effective September 4, 2001. In its present form the statute imposes limits on contributions to committees when those contributions are made or used for the purpose of making contributions to candidates for elective state office. Conversely, the statute expressly states at subdivision (c) that, except as provided in Government Code Section 85310, contributions to these committees are not subject to limitation under the Political Reform Act provided they are used for purposes other than making contributions to candidates for elective state office.

REGULATORY ACTION

Adopt 2 Cal. Code Regs. Section 18530.31:

The proposed regulation interprets and implements Government Code Section 85303 by defining contributions that are made or used “for the purpose of making contributions to candidates for elective state office,” and establishing ancillary rules necessary for the efficient application of the statutory mandate. The proposed regulation will provide that contributions to a committee’s fundraising expenses related to raising contributions to be made to candidates for elective state office are contributions made or used “for the purpose of making contributions to candidates for elective state office.” To implement this interpretation, the regulation will provide methods by which a committee can calculate the amount of these expenses. However, the Commission may consider and adopt a regulation that interprets this definition to cover committee expenses beyond fundraising or a regulation that interprets this definition to cover no committee expenses.

The draft regulation does the following:

- Defines contributions that are made by a donor or used by a committee for the purpose of making contributions to a candidate for elective state office.
- Describes potential liability under Section 85303 for an over-limit contribution for both the donor and the committee.
- Describes payments for fundraising costs that must be made from the committee's "all-purpose" bank account — whose funds are contributed under the limits of Section 85303.
- Prescribes acceptable methods for allocating the costs of fundraising when the proceeds are used in part to make a contribution to a candidate for elective state office, as well as for other purposes not subject to the contribution limits of Section 85303.
- And, proposes recordkeeping rules.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulatory action will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulatory action will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulatory action will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of this regulation is to implement, interpret and make specific Government Code Section 85303.

CONTACT

Any inquiries should be made to Lawrence T. Woodlock, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.html?id=351>.

ADDITIONAL COMMENTS

After the hearing, the Commission may adopt, amend or repeal the regulation if it remains substantially the same as described or as in the text originally made available to the public. The Commission may make changes to the regulation before its adoption, amendment, or repeal.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation at a public hearing on or after November 8, 2007, at approximately 10:00 a.m. Written comments must be received at the Commission offices no later than 5:00 p.m. on November 6, 2007.

BACKGROUND/OVERVIEW

Candidates for elective state office are permitted to raise contributions for a general election prior to the primary election for the same office. (Government Code Section 85318.) However, if the candidate is defeated in the primary election, the general election funds must be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election contributions. While Government Code Section 85318 permits expenses to be deducted from contributions that must be refunded, it does not provide guidance as to how the expenses should be allocated between the primary and general elections.

Candidates who accept voluntary expenditure ceilings (Government Code Section 85400 et seq.) are required to report these charges against their general election funds on campaign reports filed during the course of the primary under allocation rules specified by 2 Cal. Code Regs. § 18540. This regulation was enacted to regulate the allocation of expenditures for purposes of the separate expenditure limits for general and primary elections.

Proposed regulation 18531.2 would apply the same allocation rules to refunds of general election funds currently used to allocate expenditures for purposes of voluntary expenditure ceilings.

REGULATORY ACTION

Adopt 2 Cal. Code Regs. § 18531.2: The Commission may consider whether to adopt regulation 18531.2

to set forth allocation rules for expenditures that are deducted from contributions to primary elections that must be refunded when a candidate is defeated in the primary election. Following is the proposed language:

“A candidate for elective state office shall apply 2 Cal. Code Regs. Section 18540, subdivisions (a)(1) through (a)(7), for purposes of calculating a general or special general election expense that may be deducted from contributions refunded under Government Code Section 85318.”

The proposed regulatory language which may be examined by the Commission is limited to the interpretation of Section 85318 and is not intended to impact other provisions of the Act.

SCOPE

The Commission may delete provisions, adopt the language noticed herein, or choose new language to set forth rules for allocating expenses prior to refunding contributions.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of this regulation is to implement, interpret and make specific Government Code section 85318.

CONTACT

Any inquiries should be made to Valentina Joyce, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at www.fppc.ca.gov.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation at a public hearing on or after November 8, 2007, at approximately 10:00 a.m. Written comments must be received at the Commission offices no later than 5:00 p.m. on November 6, 2007.

BACKGROUND/OVERVIEW

The electronic filing provisions of the Political Reform Act (Gov. Code Sections 81000-91014) provide that a person's street address should not be publicly available on the internet. (Government Code Section 84602(d).) Because of this, at the time this regulation was originally adopted, the Secretary of State intended to create a system where only the cities and zip codes of contributors would be displayed on its website. Regulation 18421.2 was adopted to require that contributors supply their city and zip code as part of their street address when a street address was required to be reported for contribution purposes so that the Secretary of State would have the information needed for display on its website.

In one case, FPPC staff has had to advise that a contribution made by a member of the military had to be returned if the contributor did not supply a street address that included a street name, building number, city, state and zip code as required by the current version of Regulation 18421.2. The contributor did not have a street address as defined in this regulation, but only had an Army and Air Force Post Office (A.P.O.) address. This amendment is intended to ensure that those who have only an A.P.O. or F.P.O. (Fleet Post Office) address are not prevented from making contributions because they do not have a street address, as it is currently defined in Regulation 18421.2. Army and Air Post Office addresses are typically assigned to members of the United States Army or Air Force and their dependents who are overseas, whereas Fleet Post Office Addresses are typically assigned to members of the United States Navy and their dependents who are overseas.

REGULATORY ACTION

Amend 2 Cal. Code Regs. Section 18421.2:

This amendment to Regulation 18421.2 will include (A.P.O.) and (F.P.O.) addresses in the current definition of street address in Regulation 18421.2.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of these regulations is to implement, interpret, and make specific Government Code Sections 84102, 84108, 84203, 84204, 84211, 84219, 84302, 84305, 84305.5.

CONTACT

Any inquiries should be made to Sukhi Brar, Counsel, Legal Division, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.html?id=351>.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3423(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Interior Quarantine as an emergency action that was effective July 20, 2007. The Department proposes to continue the regulation as amended and submit a Certificate of Compliance for this action no later than January 16, 2008.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture previously amended Section

3423(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Interior Quarantine as an emergency action that was effective on December 20, 2006. However, the Department did not submit a Certificate of Compliance by April 19, 2007. The Department proposes to continue the regulation as originally amended and submit a Certificate of Compliance for this action no later than January 16, 2008.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before November 26, 2007.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of California and prevent the spread of injurious pests (Food and Agricultural Code Sections 401 and 403). Existing law provides the Secretary may establish, maintain, and enforce quarantine regulations, as he deems necessary, to circumscribe and exterminate or prevent the spread of pests (Food and Agricultural Code, Sections 5301, 5302 and 5322).

The July 20, 2007, amendment of Section 3423(b) removed a quarantine area of approximately 93 square miles surrounding the Santa Ana area of Orange County. The December 20, 2006, amendment removed the quarantine area for Oriental fruit fly of approximately 65 square miles in the Rialto area of San Bernardino County. The effect of these changes is to remove the authority for the State to regulate movement of hosts of Oriental fruit fly from, into, and within that area previously under quarantine. The proposed action does not differ from any existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3423 does not impose a mandate on

local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3423. No reimbursement is required for Section 3423 under Section 17561 of the Government Code because this amendment removes the need for the agricultural commissioners of Orange and San Bernardino counties to enforce the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be

more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to amend Section 3423(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based

may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3591.6, subsection (a), of the regulations in Title 3 of the California Code of Regulations pertaining to Gypsy Moth Eradication Area as an emergency action that was effective on July 20, 2007. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than January 16, 2008.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before November 26, 2007.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also pro-

vides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts, and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

Section 3591.6, subsection (a), was amended and established Santa Clara County as an eradication area for gypsy moth, *Lymantria dispar*. The effect of this action was to establish authority for the State to conduct eradication activities in Santa Clara County against this pest. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3591.6 does not impose a mandate on local agencies or school districts and no reimbursement is required for Section 3591.6 under Section 17561 of the Government Code. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed adoption and amendment to the regulations

would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend Section 3591.6, subsection (a), pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes to amend Section 3591.6, subsection (a), to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3433, subsection (b) of the regulations in Title 3 of the California Code of Regulations pertaining to Diaprepes Root Weevil Interior Quarantine as an emergency action that was effective on July 9, 2007. The Department proposes to continue the regulation as amended and to complete the adoption process by submission of a Certificate of Compliance no later than January 7, 2008.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the actions proposed to the agency officer named below on or before November 19, 2007.

Following the public hearing and the written comment period, the Department of Food and Agriculture may certify that there was compliance with provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of California and prevent the spread of injurious pests (Food and Agricultural Code Sections 401 and 403). Existing law provides the Secretary may establish, maintain, and enforce quarantine regulations, as he deems necessary, to circumscribe and exterminate or prevent the spread of pests (Food and Agricultural Code, Sections 5301, 5302 and 5322).

This amendment of Section 3433 expanded two new quarantine areas in San Diego County (Fairbanks Ranch and La Jolla areas). This added approximately five and one half square miles to the La Jolla area and two square miles of the Fairbanks Ranch area of San Diego County as additional areas under quarantine for *Diaprepes abbreviatus*. The effect of the amendment is to provide authority for the State to regulate movement of the articles and commodities covered that may move life stages of the Diaprepes root weevil from, into, and within that area under quarantine to prevent artificial spread of the weevil to noninfested areas to protect California's agricultural industry. There is no existing, comparable federal regulation or statute.

The proposed amendment of Section 3433 will expand an existing quarantine area in the Encinitas area and establish a new quarantine area in the Solana Beach area of San Diego County. The proposed amendment will also establish a new regulated area in the La Mirada area of Los Angeles County where the buffer area will also include a small portion of Orange County. Additionally, the detection of one adult weevil in the Costa Mesa area is adjacent to the existing Newport Beach (west) quarantine area of Orange County, and is considered an expansion of this regulated area.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3433 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3433. No reimbursement is required for Section 3433 under Section 17561 of the Government Code because the San Diego County Agricultural Commissioner requested the changes in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies

or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting some California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the amended regulation on a representative private person or business located within the regulated area may be significant. An average infested ornamental production nursery producing plants in one-gallon containers may incur initial costs of \$334 to \$527 per acre per six month period and; thereafter, ongoing costs of \$214.75 to \$456.25 per acre per six month period in reasonable compliance with the proposed action. Approximately 65,000 one-gallon containers may be placed upon one acre. This translates into an initial increased production cost of \$0.005 to 0.008 per one gallon container and an ongoing production cost of \$0.003 to 0.007 per one gallon container of nursery stock every six months. The actual costs may vary with the type, size and production practices of the affected businesses.

ASSESSMENT

The Department has made an assessment that the proposed amendment to the regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the

action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to amend Section 3433 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulation in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based

may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differs from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 4. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) proposes to amend regulations contained in Title 4, Division 9, Chapter 6. A new Article 8 would be created to establish quality standards for hydrogen fuel used in fuel cell and internal combustion motor vehicles.

The California Business and Professions Code, Section 13446 charges the Department, with the concurrence of the State Air Resources Board, to establish standards for hydrogen motor vehicle fuels by January 1, 2008. The Department is required to adopt by reference the latest standard established by an American National Standards Institute (ANSI) accredited standards development organization for hydrogen. If such a standard has not been developed, the Department is required to establish interim standards.

The Department has determined that no ANSI accredited standards development organization has established standards for hydrogen fuel used in fuel cell or internal combustion motor vehicles. Therefore, the Department proposes to establish interim standards for hydrogen fuel.

PUBLIC HEARING

The Department has scheduled a public hearing on this proposed action. The hearing will be held at 1001 I Street, Sacramento, California 95812, at 1:00 p.m. on December 17, 2007. At this hearing, any person may present statements of arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the time of the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comment relevant to the proposed regulatory action to the Department. The

written comment period closes at 5:00 p.m. on December 17, 2007. The Department will consider only comments received at the Department offices by that time. Submit comments to: Department of Food and Agriculture, Division of Measurement Standards, 6790 Florin Perkins Road, Suite 100, Sacramento, California 95828. Comments may also be submitted by facsimile (FAX) at (916) 229-3026 or by email at DMS@cdfa.ca.gov.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On July 21, 2005, Governor Schwarzenegger signed into law Senate Bill 76 (Chapter 91, Statute of 2005). The goal of this new law is to support the development of a network of hydrogen refueling locations in California, thereby reducing California's dependency upon oil and supporting the use of alternative fuels. The new law also recognized the importance of a consistent high quality fuel to prevent the fouling or failure of fuel cells or internal combustion engines. The Department, in concurrence with the California Air Resources Board is mandated by January 1, 2008 to establish standards for hydrogen for use in fuel cells and internal combustion engines.

The Department recognizes that additional research and product development is required before fuel cell vehicles will be offered to the general public. It is also recognized that this proposed interim standard is only required because not all of the quality and testing issues have been fully addressed by SAE, ASTM or other consensus groups. It is the intention of this proposed regulation to promote and assist in the development process.

The latest SAE technical information report on hydrogen indicates a desire to have one standard to address hydrogen used for both fuel cells and internal combustion engines. The Department recognizes that the proposed standard may be overly restrictive for internal combustion engine fuel applications. As new technical and economic information become available regarding this issue; the Department will consider adopting by regulation a separate standard for hydrogen used in internal combustion engines.

Article 8. Specifications for Hydrogen Used in Internal Combustion Engines and Fuel Cells

Section 4180. Definitions Used in this Article

This section as proposed defines the terms "Fuel Cell", "Internal Combustion Engine" and "Hydrogen Fuel".

Section 4181. Hydrogen Used in Fuel Cells and Internal Combustion Engines

This section as proposed establishes standards for hydrogen fuel used in fuel cell and internal combustion

motor vehicles. It also delays enforcement of the proposed standards by the Department until sampling and test procedures are adopted by regulation.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Secretary has determined that this proposal does not impose a mandate on local agencies or school districts.

The Secretary also has determined that this action will involve no costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department is not aware of any statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT REGARDING EFFECT ON JOB/BUSINESSES

The Department has made an assessment that the proposed regulation may: (1) create jobs within California; (2) create new businesses within California; or (3) affect the expansion of businesses currently doing business in California; and (4) will not eliminate jobs or businesses within California.

ALTERNATIVES CONSIDERED

The Department could seek legislative relief from the January 1, 2008 deadline to establish standards for hy-

drogen motor vehicle fuels. The date of implementation could be extended to January 1, 2011. This delay would provide time for a consensus standard to be developed. Such legislation should authorize the Department to monitor the interim hydrogen fuel quality in California and require the Department to work with ASTM, SAE and other consensus organizations in the development of a standard.

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

AUTHORITY

Pursuant to Business and Professions Code, Division 5, Sections 12027 and 13446.

REFERENCE

The Department proposes to amend the current regulations to implement, interpret, and make specific the provisions of the Business and Professions Code, Section 13446.

CONTACT PERSON

Inquiries about this notice may be directed to Kristin Macey, Branch Chief, Division of Measurement Standards at (916) 229-3044 or kmacey@cdfa.ca.gov. The back-up contact person is Al Hebert, Supervising Chemist, Division of Measurement Standards at (916) 229-3030 or ahebert@cdfa.ca.gov.

EFFECT ON SMALL BUSINESS

The cost of equipment needed to produce hydrogen is beyond the scope of a small business. Therefore, the Department has made an assessment that the proposed regulations will not have an affect on small business.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the statement of reasons, and the proposed regu-

lations in strikeout and underline form may be obtained upon request. The rulemaking file, and all information on which the proposal is based is located at the Division of Measurement Standards, 6790 Florin Perkins Road, Suite 100, Sacramento, California 95828, and may be obtained upon request. Additionally, all documents relating to this rulemaking file may be obtained from the Department's web site located at www.cdfa.ca.gov/dms/.

Following the written comment period, the Department will adopt the proposal substantially as set forth above without further notice. If the regulation adopted by the Department differs from but is sufficiently related to the action proposed they will be available to the public for at least 15 days prior to the date of adoption. Any interested person may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

A Final Statement of Reasons, when available, may be obtained by contacting Kristin Macey, Branch Chief, Division of Measurement Standards, at (916) 229-3044 or kmacey@cdfa.ca.gov.

TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 5 REGARDING CHILD NUTRITION PROGRAMS

[Notice published October 5, 2007]

NOTICE IS HEREBY GIVEN that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing beginning at **1:00 p.m. on November 20, 2007**, at 1430 N Street, Room 1101, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Connie Diaz, Regulations Analyst
LEGAL DIVISION
California Department of Education
1430 N Street, Room 5319
Sacramento, California 95814

Comments may also be submitted by facsimile (FAX) at 916-319-0155 or by e-mail to regcomments@cde.ca.gov. Comments must be received by the Regulations Coordinator prior to **5:00 p.m. on November 20, 2007**.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Authority: Section 33031, Education Code.

Reference: Sections 49430, 49431, 49431.2, 49431.5, Education Code; Sections 38181, 38191, and 38211, Food and Agricultural Code; 7 CFR Parts 210.10 and 220.8.

INCORPORATION BY REFERENCE

Sections 1, 2 and 3 of the U.S. Department of Agriculture's *Food Buying Guide for Child Nutrition Programs* (2001 edition) are incorporated by reference. These sections are available for review from the Regulations Coordinator.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Education Code sections 49430, 40431, 40431.2, and 49431.5 (Senate Bill 12 and Senate Bill

965) create requirements for all food and beverages sold to students in school outside of the federally reimbursable meal programs. The requirements outlined in these laws improve the nutritional quality of food and beverage items sold through student stores, vending machines, district à la carte offerings, and on-campus fundraising.

The CDE proposes regulations to clarify and define ambiguous areas within the laws. Based on questions arising over several months, the proposed regulations provide essential guidance to entities selling foods and beverages on school campuses so that they can comply with the requirements. The primary purposes of the proposed regulations are to:

1. Define food terms used in the law. For example, the law uses terms such as "dairy," and "whole grain" but does not supply a definition for these terms.
2. Define beverage terms used in the law. For example, the law uses terms such as "electrolyte replacement beverage," "milk," and "nondairy milk" but does not supply a definition for these terms.
3. Clarify compliant food items. For example, the law outlines individual food requirements but does not include guidance for individual foods eaten in combination such as a bagel with cream cheese. The law also does not include guidance for individual foods mixed together such as trail mix.

DISCLOSURES REGARDING THE PROPOSED REGULATION

The SBE has made the following initial determinations:

Mandate on local agencies or school districts: None

Cost or savings to state agencies: None

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The statute adversely impacted the food and beverage manufactures and sales of foods of minimal nutritional value (FMNV) and other foods by setting nutritional requirements of the statute and these regulations and prohibiting the sale of foods and beverages that do not meet the nutritional requirements.

It is unknown whether the adoption of these regulations will 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None

Effect on small businesses: The proposed regulations may have a significant adverse economic impact on some food and beverage businesses because this regulation clarifies what food and beverages may be compliant, and therefore sold, in schools. Many food and beverage manufacturers have modified their products to comply with the existing law. Since there were ambiguous areas of the law that the regulations need to clarify, this may lead to additional changes in food and beverage manufacturing which can impact the cost of creating, developing, or selling compliant products.

The proposed regulations also may result in some food and beverage manufacturers being able to sell either a greater or lesser number of products than they correctly understand is allowable.

CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The SBE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the content of this regulation may be directed to:

Michael Danzik, Nutrition Education Specialist
Nutrition Services Division
California Department of Education
1430 N Street, Suite 1500
Sacramento, CA 95814
Telephone: 916-445-7346
E-mail: mdanzik@cde.ca.gov

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Connie Diaz, Regulations Analyst, at 916-319-0860.

INITIAL STATEMENT OF REASONS AND INFORMATION

The SBE has prepared an initial statement of reasons for the proposed regulation and has available all the information upon which the proposal is based.

TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's Web site at <http://www.cde.ca.gov/re/lr/r/>.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Regulations Coordinator.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Michael Danzik, Child Nutrition Division, 1430 N Street, Sacramento, CA, 95814; telephone, 916-445-7346; fax, 916-322-3749. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 10. CALIFORNIA DEPARTMENT OF CORPORATIONS

NOTICE IS HEREBY GIVEN

The Commissioner of Corporations ("Commissioner") proposes to amend regulations under the Corporate Securities Law of 1968 ("CSL") relating to the maintenance and preservation of books and records by broker-

dealers, and reports required of both broker-dealers and investment advisers, pursuant to Corporations Code Section 25241. The Commissioner proposes to amend Sections 260.218.5, 260.241, 260.241.1, and 260.241.2 of the California Code of Regulations (10 C.C.R. §§ 260.218.5, 260.241, 260.241.1, and 260.241.2).

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department of Corporations' ("Department") contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department addressed to Karen Fong, Office of Legislation and Policy, Department of Corporations, 1515 K Street, Suite 200, Sacramento, California, 95814-4052, no later than 5:00 p.m., November 19, 2007. Written comments may also be sent to Karen Fong via electronic mail to regulations@corp.ca.gov or via fax at (916) 322-5875.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Rule 260.241 (10 C.C.R. 260.241) of the CSL (Corporations Code Section 25000, et seq.) sets forth requirements for licensed broker-dealers with respect to the making and maintaining of books and records, and Rule 260.241.1 (10 C.C.R. 260.241.1) sets forth requirements for licensed broker-dealers regarding the preservation of records.

The Commissioner seeks to repeal the existing requirements in these rules and instead set forth the requirement that broker-dealers comply with the record-keeping requirements in Rules 15c2-11 (17 C.F.R. 240.15c2-11), 15g-2 (17 C.F.R. 240.15g-2), 15g-4 (17 C.F.R. 240.15g-4), 15g-5 (17 C.F.R. 240.15g-5), 15g-6 (17 C.F.R. 240.15g-6), 17a-3 (17 C.F.R. 240.17a-3) and 17a-4 (17 C.F.R. 240.17a-4) under the Securities Exchange Act of 1934 ("Exchange Act," 15 U.S.C. § 78a, et seq.).

Congress in its passage of the National Securities Markets Improvement Act of 1996 (Pub. L. No.

104-290, 110 Stat. 3416 (1996), "NSMIA") prohibited state securities regulators from establishing or enforcing under their state securities laws or rules, record-keeping requirements for securities broker-dealers that are inconsistent with, or not required by, the U.S. Securities and Exchange Commission ("SEC"). (Section 15(h) of the Exchange Act.)

On October 25, 2001, the SEC adopted amendments to Rules 17a-3 (17 C.F.R. 240.17a-3) and 17a-4 (17 C.F.R. 240.17a-4) under the Securities Exchange Act of 1934 to clarify and expand record keeping requirements in connection with purchase and sale documents, customer records, associated person records, customer complaint records, and certain other matters. The amendments also require broker-dealers to maintain or promptly produce certain records at each office to which those records relate.

Through this rulemaking action the Commissioner proposes to amend California's recordkeeping requirements for securities broker-dealers to mirror the SEC's rules, in order to comply with the prohibition in NSMIA against differing standards. Rather than amending the books and records requirements in Rules 260.241 and 260.241.1 to be consistent with the SEC's amended rules, the Commissioner instead proposes to repeal the existing books and records requirements and incorporate the SEC's rules by reference. The SEC's rules incorporate the customer record-keeping requirements of Commissioner's Rule 260.218.5 (10 CCR § 260.218.5), and therefore this rule is being repealed.

In addition, the Rule 260.241.2 is proposed to be amended to eliminate the mandatory filing of an annual financial report for broker-dealers, and instead provide the Commissioner with authority to require the report upon request. The amendments further clarify the interim and annual reporting requirements for broker-dealers and investment advisers by:

- Clarifying that, for investment advisers, the annual report consists of a balance sheet and income statement, as specified;
- Clarifying that the annual report filed by investment advisers not receiving fees of more than \$500 for more than six months in advance need not be audited;
- Clarifying that the annual report is due within 90 days of fiscal year end;
- Clarifying that the interim report is required of an investment adviser whose current ratio falls below 1.2;
- Setting forth the documents to be filed as the interim report for investment advisers and broker-dealers;
- Clarifying which documents are confidential; and

- Making technical changes to the rule to eliminate references to Rule 260.237.1 (10 CCR § 260.237.1), which sunset on January 1, 2005.

PURPOSE

The purpose of these changes are to ensure that California's books and records rules for broker-dealers are consistent with the federal rules, to streamline the regulatory process, to provide clarity to the annual and interim reporting requirements, and to cleanup the rules.

AUTHORITY

Sections 25241 and 25610, Corporations Code.

REFERENCE

Sections 25237, 25241 and 25608, Corporations Code.

AVAILABILITY OF MODIFIED TEXT

The full text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation. A request for a copy of any modified regulation should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulations for 15 days after the date on which any modified regulation is made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 28/01-B. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. Request Document PRO 28/01-C. These documents are also available at the Department's website at www.corp.ca.gov. As required by the Administrative Procedure Act, the Office of Legislation and Policy maintains the rulemaking file which is available for public inspection at the Department of Corporations, 1515 K Street, Suite 200, Sacramento, California.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a final statement of reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT

- Cost or savings to any state agency: none.
- Direct or indirect costs or savings in federal funding to the state: none.
- Other nondiscretionary cost or savings imposed on local agencies: none.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Does not impose a mandate on any local agency or school district or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not significantly affect (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses or the elimination of existing businesses within the State of California; or (3) the expansion of businesses currently doing business within the State of California.
- Is necessary for the health, safety or welfare of the people of the state that this regulation apply to businesses (Government Code Section 11346.3(c)).

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would neces-

sarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESS

This regulation will not affect small business because a securities broker-dealer or investment adviser is not a "small business" under Government Code Section 11342.610(b)(1).

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the text of the proposed regulations or questions regarding timelines or rule-making status, may be directed to Karen Fong at (916) 322-3553. The backup contact person is Marilyn Kaspar at (916) 322-3553. Inquiries regarding the substance of the proposed regulation may be directed to Colleen Monahan, Lead Counsel at (916) 323-3553.

TITLE 10. DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

January 1, 2008 Workers' Compensation Pure Premium Rates

File No. REG-2007-00053

Notice Date: September 21, 2007

Proposed Revisions to the Insurance Commissioner's Regulations pertaining to the Classification of Risks; Recording and Reporting of Data; Statistical Reporting and Experience Rating; and Approval of Advisory Pure Premium Rates to be effective January 1, 2008.

NOTICE AND SUBJECT OF PUBLIC HEARING

Notice is hereby given that the Insurance Commissioner will hold a public hearing to consider (1) the approval of advisory pure premium rates developed by the designated rating organization, (2) amendments to the California Workers' Compensation Uniform Statistical Reporting Plan-1995, (3) amendments to the Miscellaneous Regulations for the Recording and Reporting of

Data, and (4) amendments to the California Workers' Compensation Experience Rating Plan-1995. The hearing will be held in response to a filing, submitted on September 20, 2007, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB").

HEARING DATE AND LOCATION

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

October 23, 2007 — 9:30 AM
California Department of Insurance
22nd Floor Hearing Room
45 Fremont Street
San Francisco, California

AUTHORITY AND REFERENCE

Uniform Plans and Regulations

The workers' compensation classification of risks and statistical reporting rules are set forth in Title 10, California Code of Regulations, Section 2318.6. The miscellaneous regulations for the recording and reporting of data are set forth in Title 10, California Code of Regulations, Section 2354. The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. The regulations were promulgated by the Insurance Commissioner pursuant to the authority granted by Insurance Code Section 11734.

Pure Premium Rates

Pursuant to Insurance Code Section 11750.3, a rating organization is permitted to develop pure premium rates for submission to the Insurance Commissioner for issuance or approval. The Insurance Code provisions regarding State rate supervision operative January 1, 1995 do not authorize the Insurance Commissioner to require insurers to use the pure premium rates submitted by the designated rating organization and issued or approved by the Insurance Commissioner. Accordingly, the pure premium rates issued or approved by the Insurance Commissioner are advisory only.

Advisory Rating Plans

Pursuant to Insurance Code Sections 11750.3(a) and 11750.3(c), a licensed rating organization may promulgate advisory plans in connection with pure premium rates and the administration of classification and rating systems and present them to the Insurance Commissioner for review.

INFORMATIVE DIGEST

Pursuant to Insurance Code Sections 11734 and 11751.5, the Insurance Commissioner has designated the WCIRB as his rating organization and statistical agent. As the designated rating organization and statistical agent, the WCIRB has developed and submitted for the Insurance Commissioner's approval pure premium rates and revisions to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and California Workers' Compensation Experience Rating Plan—1995. The pure premium rates will be advisory only; however, adherence to the regulations contained in the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995 is mandatory. With regard to the standard classification system developed by the designated rating organization and approved by the Insurance Commissioner, Insurance Code Section 11734 provides that an insurer may develop its own classification system if it is filed with the Insurance Commissioner 30 days prior to its use and is not disapproved by the Insurance Commissioner for failure to demonstrate that the data produced by the insurer's classification system can be reported consistently with the California Workers' Compensation Uniform Statistical Reporting Plan—1995 or the Standard Classification System developed by the WCIRB and approved by the Insurance Commissioner.

The pure premium rates recommended by the WCIRB to be effective January 1, 2008, as well as amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995, are detailed in the WCIRB's filing and summarized below.

APPROVE PURE PREMIUM RATES

Pursuant to California Insurance Code Section 11750.3, the WCIRB has proposed advisory pure premium rates for approval by the Insurance Commissioner to be effective January 1, 2008 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2008. The proposed advisory pure premium rates are, on average, 4.2% greater than the July 1, 2007 advisory pure premium rates approved by the Insurance Commissioner.

The proposed pure premium rates applicable to new and renewal policies with anniversary rating dates on or

after January 1, 2008 are based on (a) insurer losses incurred during 2006 and prior accident years valued as of June 30, 2007; (b) insurer loss adjustment expenses for 2006 and prior years; (c) the experience rating off-balance correction factor, and (d) classification payroll and loss experience reported for policies issued during 2004 and prior years.

AMEND THE CALIFORNIA WORKERS' COMPENSATION UNIFORM STATISTICAL REPORTING PLAN—1995

The WCIRB recommends that the following revision to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 become effective January 1, 2008 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2008:

- Amend Part 1, *General Provisions*, Section II, *General Definitions*, to add definitions for the terms “audit,” “physical audit” and “voluntary audit,” for clarity.
- Amend Part 3, *Standard Classification System*, Section II, *Classification Terminology*, Rule 11, *Interchange of Labor*, for clarity.
- Amend Part 3, *Standard Classification System*, Section III, *General Classification Procedures*, Rule 3, *Multiple Enterprises*, to add examples and reorganize for clarity.
- Amend Part 3, *Standard Classification System*, Section IV, *Special Industry Classification Procedures*, Rule 2, *Construction or Erection Work*, Subrule a, *Determination of Dual Wage Construction or Erection Classification*, to specify that the assignment of a high wage construction classification is contingent upon the availability of records necessary to reconcile the number of hours worked against actual time cards or time sheets and to add examples for clarity.
- Amend Part 3, *Standard Classification System*, Section VI, *Administration of Classification System*, Rule 4, *Audit of Payroll*, to clarify that a physical audit requires the review of an employee's original payroll records, electronic or hard copy, and to clarify the definition of voluntary audit.
- Amend the minimum and maximum annual payroll for executive officers, partners, and sole proprietors to increase the maximum from \$89,700 to \$92,300 and the minimum from \$33,800 to \$35,100, as well as to other payroll limitations relevant to specific classifications (e.g., athletic teams, entertainment classifications, taxicabs, etc.), to reflect wage inflation since the

last time these amounts were amended (January 1, 2007).

- Amend the footnote to these classifications to clarify the classifications applicable to certain trenching operations.

Excavation — N.O.C., Classifications 6218(1)/6220(1)

Grading Land — N.O.C., Classifications 6218(2)/6220(2)

- Amend the, dual wage classifications noted below to increase the wage threshold by \$1.00 to reflect wage inflation since the last time the thresholds were amended.

Automatic Sprinkler Installation, Classifications 5185/5186

Carpentry—private residences, Classifications 5645(1)/5697(1)

Carpentry—other, Classifications 5403/5432

Concrete or Cement Work, Classifications 5201/5205

Electrical Wiring, Classifications 5190/5140

Gas/Water Mains, Classifications 6315/6316

Glaziers, Classifications 5467/5470

Masonry, Classifications 5027/5028

Painting, Classifications 5474/5482

Plastering or Stucco Work, Classifications 5484/5485

Plumbing, Classifications 5183(1)/5187(1)

Refrigeration Equipment, Classifications 5183(2)/5187(2)

Roofing, Classifications 5552/5553

Sheet Metal Work, Classifications 5538/5542

Sewer Construction, Classifications 6307/6308

Wallboard Application, Classifications 5446/5447

Steel Framing — light gauge — residential, Classifications 5630/5631

Steel Framing — light gauge — commercial, Classifications 5632/5633

- Eliminate Classification 4360, *Motion Pictures — development of negatives, printing and all subsequent operation except the marketing of the product through film exchanges at locations other than the studio*, to reflect changes proposed elsewhere in this section.

- Amend Classification 4362, *Motion Pictures — film exchanges*, to include the operations of motion picture film developers and processors and to remove the inclusion of Clerical Office Employees.
- Amend Classification 9610, *Motion Pictures — production*, to include all operations within the motion picture production industry.
- Amend the USRP for clarity and consistency.

AMEND MISCELLANEOUS REGULATIONS FOR THE RECORDING AND REPORTING OF DATA

The WCIRB recommends the following revisions to the Miscellaneous Regulations for the Recording and Reporting of Data to become effective January 1, 2008 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2008:

- Amend for clarity and consistency.

AMEND CALIFORNIA WORKERS' COMPENSATION EXPERIENCE RATING PLAN—1995

The WCIRB recommends the following revisions to the California Workers' Compensation Experience Rating Plan—1995 to become effective January 1, 2008 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2008.

- Amend Section III, *Eligibility and Experience Period*, Rule 1, *Eligibility Requirements for California Workers' Compensation Insurance*, to adjust the eligibility requirement from \$13,728 to \$14,900 to reflect wage inflation since the threshold was last amended and the proposed January 1, 2008 pure premium rate change.
- Amend for clarity and consistency.
- Amend the expected loss rates and D—ratios shown in Table II, *Expected Loss Rates and Full Coverage D—Ratios*, to reflect the most current data available.
- Amend the average death value to reflect the most current data available.

WCIRB ADVISORY PLANS

CALIFORNIA LARGE RISK DEDUCTIBLE PLAN

The WCIRB has adopted the following revisions to the California Large Risk Deductible Plan. The amendments will become effective January 1, 2008:

Amendments to the advisory California Large Risk Deductible Plan were adopted by the WCIRB to be effective January 1, 2008 to reflect updated rating values, updates to referenced legislation and for editorial clarity. This WCIRB advisory plan is being submitted in its entirety to the California Department of Insurance for review.

CALIFORNIA RETROSPECTIVE RATING PLAN

The WCIRB has adopted the following revisions to the California Retrospective Rating Plan. The amendments will become effective January 1, 2008:

Amendments to the advisory California Retrospective Rating Plan were adopted by the WCIRB to be effective January 1, 2008 to reflect updated rating values, updates to referenced legislation and for editorial clarity. This WCIRB advisory plan is being submitted in its entirety to the California Department of Insurance for review.

CALIFORNIA SMALL DEDUCTIBLE PLAN

The WCIRB has adopted the following revisions to the California Small Deductible Plan. The amendments will become effective January 1, 2008:

Amendments to the advisory California Small Deductible Plan were adopted by the WCIRB to be effective January 1, 2008 to reflect updated rating values, updates to referenced legislation and for editorial clarity. This WCIRB advisory plan is being submitted in its entirety to the California Department of Insurance for review.

COSTS OR SAVINGS RESULTING FROM THE REGULATIONS

The Insurance Commissioner is authorized by law to promulgate advisory loss cost rates. These rates may or may not be adopted by insurance companies. To the extent they are adopted, they may result in higher costs.

COST OR SAVINGS AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Insurance Commissioner has determined that there will not be a cost increase or savings and there will not be any new programs mandated on any local agency or school district as a result of the proposed regulations, if adopted as proposed herein.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has determined that the proposed regulations will not have a significant effect on housing costs.

IMPACT ON SMALL BUSINESSES

The Insurance Commissioner has determined that the proposed regulations will not have a significant effect on small businesses.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by the proposal. At this time, the Insurance Commissioner expects that the proposed regulations will not have a significant effect on private persons or entities.

FEDERAL FUNDING TO THE STATE

The matters proposed herein will not affect any federal funding.

NON-DISCRETIONARY COSTS OR SAVINGS

The proposed regulations will not impose any non-discretionary costs or savings to local agencies.

COST OR SAVINGS TO STATE AGENCIES

The matters proposed herein will not result in any cost or savings to State agencies, except for the State Compensation Insurance Fund.

REIMBURSABLE COSTS

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

ACCESS TO HEARING ROOMS

The facility to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make special arrangements, if necessary.

PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS

All persons are invited to submit written comments to the Insurance Commissioner prior to the public hearing

on the proposed amendments contained in the WCIRB's filing. Such comments should be addressed to:

California Department of Insurance
Attn: Christopher A. Citko
Senior Staff Counsel
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
(916) 492-3187

Any interested person may present oral and/or written testimony at the scheduled public hearing. Written comments and oral testimony will be given equal weight in the Insurance Commissioner's deliberations.

DEADLINE FOR WRITTEN COMMENTS

All written material, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above no later than 5:00 PM on October 30, 2007.

TEXT OF REGULATIONS AND STATEMENT OF REASONS AVAILABLE

The Insurance Commissioner has prepared an Initial Statement of Reasons for the proposed regulations, in addition to the informative digest included in this Notice of Proposed Action and Notice of Public Hearing. The express terms of the proposed regulations as contained in the WCIRB's filing, the Notice of Proposed Action and Notice of Public Hearing and the Initial Statement of Reasons will be made available for inspection or provided without charge upon written request to the contact person for these hearings (listed above). The filing may also be accessed on the WCIRB's website at www.wcirbonline.org/filings

ACCESS TO RULEMAKING FILE, CONTACT

Any interested person may inspect a copy of or direct questions about the proposed regulations or other matters relative to this filing, the statement of reasons thereof, and any supplemental information contained in the rulemaking file upon application to the contact person (listed above). The rulemaking file will be available for inspection at 300 Capitol Mall, 17th Floor, Sacramento, California 95814, between the hours of 9:00 AM and 4:30 PM, Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the informative digest that contains the general substance of the proposed

regulations, automatically will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings, and California Government Code mailing lists.

ADOPTION OF REGULATIONS

Following the hearing, the Insurance Commissioner may adopt or approve regulations substantially as described in this Notice and informative digest or he may adopt or approve modified regulations. He also may refuse to adopt or approve the regulations. Notice of the Insurance Commissioner's action will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings mailing list and to those persons who have otherwise requested notice of the Commissioner's action.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 203, 355, 3003.1, 3800, and 4150 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203, 203.1, 207, 355, 356, 2005, 2055, 3800, 3950, and 4150 of said Code, proposes to amend sections 353 and 475, Title 14, California Code of Regulations, relating to methods authorized for taking big game, nongame birds and nongame mammals.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 353, Title 14, CCR, Re: Methods Authorized for Taking Big Game

The existing regulations provide for methods to be used to take big game and traditionally, projectiles (bullets) containing lead have been used. The regulation changes proposed would require non-lead projectiles for big game hunting in the geographic area determined by the Fish and Game Commission to reduce risk of indirect lead toxicity to free-ranging California condors. Lead-alternative projectiles are primarily made of copper, and are considered effective for hunting and are not considered to be toxic to the California condor.

The proposal will allow the Fish and Game Commission to:

1. Establish the regulatory definition of projectile. A "projectile" is defined as any bullet, ball, sabot, slug, buckshot or other device which is expelled

from a firearm through a barrel by the force of any explosion. For centerfire rifles, pistols, and revolvers, "projectile" is used to replace the term "bullet". For muzzleloaders "projectile" is used to replace the terms "ball or bullet". Projectile definition is given to improve consistency and clarity.

2. Establish a maximum threshold of allowable lead in a projectile to account for trace elements present in the projectile production process. The Commission will determine a maximum threshold based on input from ammunition manufacturers, scientists, and the public.
3. Establish the geographic area in which non-lead projectiles would be required for big game hunting. Options for geographic area are:
 - a. Current California condor range as represented by the area shown in Figure 1. Based on information available to the Department, the condor currently inhabits these areas.
 - b. Current and historical range as represented by deer hunt zones in Title 14, CCR, Section 360 as South A (Unit 110), D-7, D-8, D-9, D-10, D-11, and D-13 as shown in Figure 2. Based on information available to the Department, the condor does not currently inhabit areas of Zones D-7, D-8, or D-9.
 - c. Statewide. Based on information available to the Department, the condor does not currently inhabit the entire State.
4. Establish that it is unlawful to possess any projectile containing lead in excess of the amount permitted and a firearm capable of firing the projectile while taking or attempting to take any big game.

Since the 1980s, State, federal, and non-profit organizations have diligently worked to save and reintroduce the endangered California condor into the wilds of its former range. These conservation efforts, including substantial research investigations, have resulted in the determination that lead toxicity/lead poisoning is a factor affecting condor health and survival. The Department mission is to conserve California's wildlife for use and enjoyment by the public. The intent of this regulation change is to reduce the risk to the condor from lead poisoning through big game hunting activities.

Amend Section 475, Title 14, CCR, Re: Methods of Take for Nongame Birds and Nongame Mammals

The existing regulations provide for methods to be used to take nongame birds and nongame mammals; and traditionally, projectiles (bullets) containing lead have been used. The regulation changes proposed

would require "non-lead" projectiles for nongame bird and mammal hunting in the geographic area determined by the Fish and Game Commission to reduce risk of indirect lead toxicity to free-ranging California condors. An exemption to this requirement is proposed for .22 caliber or less rimfire cartridges, for which no non-lead alternative is available. Lead-alternative projectiles are primarily made of copper, and are considered effective for hunting and are not considered to be toxic to the California condor.

The proposal will allow the Fish and Game Commission to:

1. Establish the regulatory definition of projectile. A "projectile" is defined as any bullet, ball, sabot, slug, buckshot, shot, pellet or other device which is expelled from a firearm through a barrel by the force of any explosion.
2. Establish a maximum threshold of allowable lead in a projectile to account for trace elements present in the projectile production process. The Commission will determine a maximum threshold based on input from ammunition manufacturers, scientists, and the public.
3. Establish the geographic area in which non-lead projectiles would be required for nongame hunting. Options for geographic area are:
 - a. Current California condor range. Based on information available to the Department, the condor currently inhabits these areas as shown in Figure 1.
 - b. Current and historical range as represented by deer hunt zones in Title 14, CCR, Section 360 as South A (Unit 110), D-7, D-8, D-9, D-10, D-11, and D-13 as shown in Figure 2. Based on information available to the Department, the condor does not currently inhabit areas of Zones D-7, D-8, or D-9.
 - c. Statewide. Based on information available to the Department, the condor does not currently inhabit the entire State.
4. Establish that it is unlawful to possess any projectile containing lead in excess of the amount permitted and a firearm capable of firing the projectile while taking or attempting to take any nongame species (exempting .22 caliber or less as described in proposed change #5 below).
5. Exempt .22 caliber or smaller, rimfire cartridges and their projectiles from the non-lead projectile requirement. These calibers would be exempted because there are no feasible non-lead alternatives. Nongame species killed with a .22 caliber or smaller are typically small mammals that are not considered a staple food source for condors to scavenge.

Since the 1980s, State, federal, and non-profit organizations have diligently worked to save and reintroduce the endangered California condor into the wilds of its former range. These conservation efforts, including substantial research investigations, have resulted in the determination that lead toxicity/lead poisoning is a factor affecting condor health and survival. The Department mission is to conserve California's wildlife for use and enjoyment by the public. The intent of this regulation change is to reduce the risk to the condor from lead poisoning through nongame bird and nongame mammal hunting activities.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, on all options relevant to this action at a hearing to be held at the Crowne Plaza Cedar Room, 45 John Glenn Drive, Concord, California, on Friday, October 12, 2007 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, on all options relevant to this action at a hearing to be held at the State Resources Auditorium, 1416 Ninth Street, First Floor, Sacramento, California, on Friday, November 2, 2007 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, on all actions relevant to this action at a hearing to be held at the Department of Education, State Board Room, 1430 N. Street, Room 1101, Sacramento, California, on Friday, December 7, 2007 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 30, 2007, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on December 4, 2007. All comments must be received no later than December 7, 2007, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in **strikeout—underline** format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sheri Tiemann at the preceding address or phone number. **Eric Loft, Wildlife Programs Branch, phone (916) 445-3555, has been designated**

to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Department does not believe that the proposed action will have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Based on information currently available, the Department does not believe that requiring the use of non-lead ammunition or projectiles for the hunting of big game and nongame birds and mammals in California condor range will cause any significant changes to hunting programs administered by the Department or to the public.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses

or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Ammunition retailers not offering non-lead ammunition options will likely experience a reduction in sales and revenue. Those can be mitigated by including non-lead ammunition in their sales inventory. The demand for non-lead ammunition alternatives for a variety of purposes (enforcement, security, target practice) in addition to hunting is increasing.

(c) **Cost Impacts on a Representative Private Person or Business:**

Department research indicates that although the number of manufacturers currently producing non-lead ammunition is limited and the price of non-lead ammunition is higher in cost than lead ammunition, neither of these factors will result in significant adverse cost impact to California's big-game and nongame hunters:

The difference in price for a box (20 rounds) of non-lead ammunition compared to lead ammunition varies depending on caliber and ranges from \$1.00 (2%) for 7mm caliber to \$5.00 (22%) for .243 caliber.

Differences in non-lead bullet costs for reloading (50 bullets/box) ranged from \$8.60 (37%) for .270 caliber to \$11.04 (65%) for .224 caliber.

Although production may be limited at the present time, a variety of ammunition retailers do offer non-lead ammunition in most calibers used in big-game and nongame hunting.

When viewed as part of the total cost of a hunting trip however (license, tags, food, lodging, fuel, carcass processing, taxidermy, etc.), the increased amount (up to \$5.00 for a box of ammunition and up to \$11.04 for a box of bullets) is not considered significant.

(d) **Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:**

None. There has been some concern from the public that decreased hunting license sales would result, and in turn, decreased funding in federal funds available to the state through the Federal Aid in Wildlife Program (Pittman-Robertson Act). The Department of Fish and Game has no data to substantiate that this will happen, although a survey of hunters in Fall 2006 suggested some would not buy hunting licenses if this regulatory change were made.

(e) **Nondiscretionary Costs/Savings to Local Agencies:** None

(f) **Programs mandated on Local Agencies or School Districts:** None

(g) **Costs Imposed on Any Local Agency or School District that is required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:** None

(h) **Effect on Housing Costs:** None

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.





TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 2118 and 2120, Fish and Game Code and to implement, interpret or make specific Sections 1002, 2116, 2118, 2118.2, 2118.4, 2119, 2120, 2122, 2123, 2124, 2125, 2126, 2127, 2150, 2190, 2271, 3005.9 and 3005.92, Fish and Game Code, proposes to amend Section 671, Title 14, California Code of Regulations, relating to Importation, Transportation, and Possession of Live Restricted Species.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This proposed regulation change would add seven species and two genera to the Restricted Animal List in Section 671 of Title 14. The animals listed below are non-native invasive species. They pose a threat to native fish and wildlife populations through competition for food, predation, alteration of habitats and/or as potential sources of introducing diseases or parasites to native fish and wildlife.

Prevention is the most cost effective manner of managing these species, as control and eradication projects are very costly once an invasive species is released and establishes in the wild. A number of species and genera warrant addition to the Section 671 list in order to prevent their introduction into the state's wildlands or control the spread of species that have already been introduced. Although several of the species listed below are already known to exist in California, the control of these species is still possible, and inclusion in the list of Restricted Animals identifies these species as a threat to native wildlife and habitats. Once they are listed, partner agencies, like the Department of Food and Agriculture, have authority to undertake control actions.

Proposed Taxa Not Yet Known in California

- Largescale silver carp (*Hypophthalmichthys harmandi*)
- Black carp (*Mylopharyngodon piceus*)
- Barramundi (*Lates calcarifer*)
- Abalone (all non-native species of genus *Haliotis*)

Proposed Taxa Already Present in California

- Watersnake (all species of genus *Nerodia*)
- Coqui frog (*Eleutherodactylus coqui*)
- Channeled apple snail (*Pomacea canaliculata*)
- Mute swan (*Cygnus olor*) (except for mute swans possessed before January 1, 2008)

The background information that follows provides some basic information about the species being proposed for addition to the restricted species list and the threats that they pose to native fish and wildlife resources.

Background

Largescale silver carp (*Hypophthalmichthys harmandi*)

Until recently, this species was considered a subspecies of silver carp (*H. molitrix*), which is already on California's restricted animal list (i.e. Section 671 list). The two fish are very similar plankton feeders with potential to compete with native fish larvae and invertebrates, which in turn, are the food base for many larger fish and wildlife species. Adding this newly split-off species to Section 671 essentially closes a loophole that could be used to import animals that the Commission intended to restrict when Silver carp was added to the list.

Black Carp (*Mylopharyngodon piceus*)

The natural range of black carp is drainages feeding into the Pacific Ocean in eastern Asia, including parts of China, Russia and possibly northern Vietnam. They were originally introduced into the United States as a "contaminant" in grass carp importations and were subsequently intentionally imported by fish farmers for yellow grub control and as a food fish.

Black carp is a blackish-brown fish with blackish-grey fins and an elongated and laterally compressed body. They can typically grow to more than 3 feet in length and weigh, on average, 33 pounds. Young black carp are difficult to distinguish from young grass carp (*Ctenopharyngodon idella*), another non-native species. Adults may be distinguished externally by the color and the more cylindrical form of the body, and internally by the pharyngeal teeth.

Black carp are molluscivores (mussel and snail feeders) but also eat freshwater shrimp, crawfish, and insects. At all life stages, black carp will compete for food with native species. If introduced or established, black carp are likely to have a considerable impact on native mussel and snail populations. Native fish, turtles, birds, including waterfowl, and vertebrates, such as raccoons, otters, and muskrats, are likely to be affected through competition for food.

In addition to the threat of their predatory behavior and its resulting impacts, the black carp may also have other impacts on our aquatic ecosystems including the transfer of pathogens and risk to threatened or endangered native species through predation.

Barramundi (*Lates calcarifer*)

Barramundi are found in northern Australia and the Indo-West Pacific region. They are not currently known to exist in California. At different life stages,

barramundi move between salt and freshwater habitats. Mature animals are located in estuarine/coastal areas and older juveniles are found in the upper reaches of rivers.

The fish are greenish-bronze along the back, silver along the sides, shading to white on their bellies. Juveniles have creamy and dark blotches, and may have yellowish pelvic and tail fins. Most barramundi start life as males, reaching maturity at around 3–4 years of age and later change gender and become females, usually at around age 5. They can reach weights of up to 132 pounds. Barramundi are predators with a diet of fish and crustaceans.

The breeding and rearing of barramundi commenced in the early 1980's and has resulted in the development of a significant aquaculture industry both in Australia and in South East Asia (including temperate areas such as South Australia). An area of particular concern in the farming of barramundi is the occurrence of an associated virus (Nodavirus). Barramundi pose a threat to California's native fisheries through predation, competition for food and transmission of diseases and parasites.

Watersnake (all species of the genus *Nerodia*)

There are 10 species and 15 subspecies that are currently recognized as belonging to the genus *Nerodia*. They are all from North America, with their natural range occurring east of the Rocky Mountains and south into Mexico. Three isolated occurrences are known to currently exist in California in the cities of Folsom, Sacramento Co; Roseville, Placer Co., and the community of Harbor City, Los Angeles Co. These populations are thought to have started from pets that were released.

The coloration of these snakes varies, but most individuals have earth-tone background coloration with lighter-colored crossbands running the length of the snake. Most individuals feature a dark stripe from eye to angle of jaw. It is common for *Nerodia* to become darker as they grow, and larger individuals may be completely black. They are generalist, mid-level carnivores, primarily eating amphibians and fish. The snakes themselves are prey for larger wading birds and raptors. This species has a high rate of reproduction and has developed a substantial population in Folsom over a relatively short period of time.

The concern is that *Nerodia* will impact native fish and wildlife populations through predation and competition. Of particular concern is the potential for impacts to the Sacramento-area populations of giant garter snake (*Thamnophis gigas*), which is state and federally listed as threatened.

Coqui frog (*Eleutherodactylus coqui*)

Coqui frogs are native to Puerto Rico and have become a serious pest in Hawaii, where the populations

are very dense and the calling noises are considered an auditory disturbance to residents and tourists. They survive in warm, moist environments that might be encountered in gardens and greenhouses in Southern California. They nest in cavities and do not require standing water to complete their life cycle. They are imported accidentally, typically with shipments of ornamental tropical plants and are also in the pet trade.

Coqui frog is a brown or gray-brown frog that is 1.25–2.25 inches long. Its eyes are gold, golden-brown, or brown, and it has toe disks (toepads) for climbing. The markings on the back of coqui frogs vary from no pattern, to one or two broad cream stripes, v-shaped marks, spots, blotches, or an ill-defined pale band or "M" between the shoulders. The call of male coqui is a loud "ko-KEE"

There is potential for suitable habitat for this species to increase in Southern California due to climate change. So far, they have only been reported from one site in Southern California. If established in California, they may compete with small native predators such as birds, reptiles and amphibians for insect prey.

Channeled apple snail (*Pomacea canaliculata*)

The channeled apple snail is native to a large portion of South America and has become established in the southern parts of the continental United States and Hawaii. It is tolerant of a wide range of salinities and temperatures. It has the ability to forage both in and out of water through the use of a gill and a lung. This species is sold in the pet and aquarium trade.

The size of channeled apple snails varies from approximately 1.5 to 2.5 inches wide and approximately 1.75–3 inches high depending on the conditions. The color varies completely from yellow and green (cultivated forms) to brown with or without dark spiral bands (wild form). The channeled apple snail is easily distinguished from other apple snails by the pink egg mass laid above the surface of the water away from predatory fish.

The channeled apple snail is a host for the parasitic rat lung worm (*Angiostrongylus cantonensis*), which can infect humans. The channeled apple snail has a voracious appetite for plants, including aquatic and terrestrial vegetation. It can cause a great deal of damage to aquatic habitat, ornamental plants, and agricultural crops, including rice.

Abalone (all non-native species of genus *Haliotis*)

The genus *Haliotis* has a worldwide distribution. The family has unmistakable characteristics: the shell is rounded to oval, with two to three whorls, and the last one auriform, grown into a large "ear", giving rise to the common name 'ear-shell'. The body whorl has a series of holes — four to ten depending on the species, near the anterior margin. Abalones reach maturity at a relatively

small size. Their fecundity is high and increases with size (from 10,000 to 11 million eggs at a time). The adults are herbivores and feed on macroalgae. Their sizes vary from about 0.75 inches (*Haliotis pulcherri-ma*) to about 8 inches or more (*Haliotis rufescens*) in length.

Under current regulations mollusks destined to terminal food or hobby aquarium markets are specifically exempted from the need for an importation permit, provided that they are not intended to be placed into waters of the state, or waters that are discharged to waters of the state. Effectively, there is no control over importation and other operational practices of abalone importers.

Mass mortalities of wild and cultured abalone have recently occurred in various locations worldwide, and have been shown to be caused by viruses that potentially could infect some or all of California's eight abalone species. None of these viruses are known to occur in California or elsewhere in the Eastern Pacific. Native abalone populations at risk include recovering Southern and Central California populations (including a federal ESA-listed species), North Coast red abalone populations and those held at a variety of commercial farms and restoration-related culture facilities statewide. Associated activities that could be impacted include the North coast recreational fishery, commercial abalone farming, a potential San Miguel Island commercial fishery, and restoration activities.

Abalone disease agents could contact waters of the state via holding infected abalone at facilities or restaurants in marine settings that illegally discharge water from on-site tanks, through unintentional escapement and through ritual release of abalone directly into state waters. Although the potential for exposure of native abalone to foreign pathogens via these routes is relatively low, the potential impact is extremely high.

Preventing exposure is the most cost effective method of disease management. This requires control over the non-native abalone importation process, both for non-native abalone initially entering California and non-native abalone that is being transported and held at various locations within the state. Including the non-native species of the genus, *Haliotis*, in the restricted animal list is an appropriate and straightforward means of achieving the necessary regulatory control. It will also incidentally provide documentation that could be useful in controlling an outbreak of disease, should that occur.

Mute Swan (*Cygnus olor*)

Mute swans are native to Europe and Asia, and were successfully introduced into North America in the early 1900's. Feral mute swans inhabit mostly estuary and marsh habitats throughout their range in North America and locally, have been found to be reproducing in the

Petaluma Marsh region. In 2007, DFG staff observed feral mute swans in the Suisun Marsh region.

They are best distinguished from North American swans by the knob at the base of the upper bill, and the color of the bill itself, which is orange, with the tip and base colored black. Also, mute swans hold their necks in a curved position while swimming, while tundra swans hold their necks straight up. Another difference between these two species is that the tundra swan population is migratory, while mute swans are mostly non-migratory.

Since swan species feed primarily on submerged aquatic vegetation (SAV hereafter), they have the ability to reduce SAV by 95% in introduced areas. Adult mute swans consume 35–43% of their weight on a daily basis. In addition, feeding behavior causes uprooting and damage to other plant species. These types of impacts reduce the carrying capacity of habitat for wintering and breeding waterbirds and waterfowl. Reductions in SAV have also been documented to result in decreased habitat and populations for fish, shellfish, and macroinvertebrates.

Furthermore, mute swans are highly aggressive and do not socially aggregate with other species during winter. Due to their size and aggressiveness, mute swans are capable of injuring people and attacks on humans have been documented.

Proposal Overview

Currently in California, it is legal to import, transport or possess the animals described above. The Department requests the Commission consider the proposed amendments to Section 671 to add the above six species and two genera to the list of restricted species.

If this change is adopted, it would be unlawful to import, transport, or possess alive individuals of these animals except under a permit issued by the Department, although for one species (mute swans) existing specimens in captivity would be allowed without permit. This section contains the list of restricted species that are unlawful for any person to import, export, transport, maintain, dispose or use except as authorized in a permit issued by the department.

Regulatory control over these animals is needed because they pose a threat to native fish and wildlife populations through competition for food, predation, alteration of habitats and/or as potential sources of introducing diseases or parasites to native fish and wildlife.

Other non-substantive revisions for simplification and clarity purposes are proposed. In Subsection 671(c)(1)(I), lines 1. and 2. are replaced by "all species (D)" for simplification. In Subsection 671(c)(5)(A), "the species" is removed from the beginning of lines 1. and 2. for clarity.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Crowne Plaza, Cedar Room, 45 John Glenn Drive, Concord, California on Friday, October 12, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the California Resources Building, First Floor Auditorium, 1416 9th Street, Sacramento, California on Friday, November 2, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Department of Education, State Board Room, 1430 N Street, Room 1101, Sacramento, California on Friday, December 7, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 26, 2007, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on December 4, 2007. All comments must be received no later than December 7, 2007, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in **strikeout-underline** format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Shawn Cabbage at the preceding address or phone number. **Susan R. Ellis, Invasive Species Coordinator, phone (916) 653-9767, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days

prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) **Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed action is necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) **Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:**

None.

- (c) **Cost Impacts on a Representative Private Person or Business:**

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) **Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:**

None.

- (e) **Other Nondiscretionary Costs/Savings to Local Agencies:**

None.

- (f) **Programs Mandated on Local Agencies or School Districts:**

None.

- (g) Costs Imposed to Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 22. EMPLOYMENT TRAINING PANEL

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Employment Training Panel (Panel) proposes to amend Section 4410 and to repeal Section 4410.5 of Title 22 of the California Code of Regulations. The Initial Statement of Reasons and Express Text of the proposed action are accessible through the *Pending Regulatory Actions* link on the Home Page of the ETP website (www.etp.ca.gov).

AUTHORITY AND REFERENCE

The Panel's rulemaking authority is contained in Unemployment Insurance (UI) Code section 10205(m).

The Panel is implementing, interpreting and making specific Unemployment Insurance Code Section 10209(d), for both proposed actions.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 4410, Substantial Contributions

Under existing Section 4410, as amended in 1998, the Panel must impose a substantial financial contribution toward the cost of a training project to further the goal of a "broad and equitable distribution of funds" at UI Code Section 10209(d). Employers that have received Panel funds on at least two prior projects (direct and multiple

employer contracts) totaling \$250,000 or more at the same facility must contribute 30% of total training costs. Employers that have received funds for a fourth project in five years must contribute 50% of those costs. The regulation exempts small businesses with 100 or fewer full-time employees.

This amendment would reduce the number of prior projects required to trigger a substantial contribution to one, so the requirement would arise sooner than under the current regulation. This amendment would clarify that payment earned is aggregated, for both single- and multiple-employer participation, in prior projects funded by the Panel. This amendment would define several terms and cross-reference an existing exemption for Critical Proposal projects at T.22, CCR Section 4202.2, for clarity.

In addition, this amendment would allow the Panel to calculate a substantial contribution based on the anticipated payment to be earned in an active project, and to modify a substantial contribution at the 50% level. In both instances, the Panel's discretion would be exercised case-by-case, based on a series of factors.

Repeal Section 4410.5, Exemption from Substantial Contributions

Under existing Section 4410.5, as in effect since 1998, a substantial contribution is not required when the jobs for which training is sought will be relocated out of state, or will not exist in California, as evidenced by an affidavit or declaration from an officer of the business seeking Panel funds. This waiver is not required by statute.

The necessity for both proposed actions is set forth in the Initial Statement of Reasons.

FISCAL DISCLOSURES

The Panel has made the following initial determinations regarding fiscal disclosures as required by Government Code Section 11346.2.

A. Fiscal Impact. The proposed actions do not impose costs or savings requiring reimbursement under Section 17500 *et seq.* of the Government Code. Also, these actions do not impose non-discretionary costs or savings to any local agency; nor do they impact federal funding for the State. The proposed actions do not impose costs, nor do they affect any cost of savings on any other state agency. They would result in preserving ETP funds for a more equitable distribution among a more diverse group of employers.

B. Cost Impacts. The Panel is unaware of any cost impacts (including housing costs) that a representative private person or business would necessarily incur to reasonably comply with the proposed actions.

C. Adverse Impact on Business. The proposed actions do not have any significant, statewide adverse

economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These actions would have a positive effect since it would better implement the statutory goal of achieving a "broad and equitable distribution of funds" pursuant to Unemployment Insurance Code Section 10209(d).

D. Effect on Small Business. The proposed actions will not affect small businesses, since they continue to exempt small businesses with 100 or fewer full-time employees.

E. Effect on Jobs and Business Expansion. The proposed actions would not create or eliminate jobs in California. Nor would they create new businesses or eliminate existing businesses in California. These actions would not directly affect the expansion of businesses currently operating in California.

F. Imposed Mandate. The proposed actions do not impose a mandate on local agencies or school districts.

REASONABLE ALTERNATIVES

The Panel must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action. Interested persons are welcome to identify reasonable alternatives during the written comment period.

WRITTEN COMMENT PERIOD

A 45-day written comment period has been established beginning on October 5, 2007 and ending at 5:00 p.m. on November 19, 2007. Any interested person, or his or her authorized representative, may present written comments on the proposed actions within that time period. Comments should be sent to:

Spencer Kenner, Staff Counsel
Employment Training Panel, Legal Unit
1100 "J" Street, Fourth Floor
Sacramento, CA 95814
Telephone: (916) 327-5578
E-Mail: skenner@etp.ca.gov
FAX: (916) 327-5268

or

Terza Rodoni, Legal Assistant
Employment Training Panel, Legal Unit
1100 "J" Street, Fourth Floor
Sacramento, CA 95814
Telephone: (916) 327-5470
E-Mail: trodoni@etp.ca.gov
FAX: (916) 327-5268

PUBLIC HEARING

Two public hearings have been scheduled in Northern and Southern California, at the times and places shown below. Written comments and testimony will be accepted at these hearings.

November 9, 2007
1:30–3:30 p.m.
Sequoia Room, Employment Training Panel
1100 "J" Street, Suite 500
Sacramento, CA 95814

November 19, 2007
10:00–1:00 p.m.
Conference Room, Employment Training Panel
4640 Lankershim Blvd, Suite 311
North Hollywood, CA 91602

MODIFICATIONS

Modifications to the text of the proposed regulatory actions may be made after the public comment period. If so, they will be posted on the ETP Website at www.etp.ca.gov. Any modifications will be open to public comment for at least 15 days before being adopted, as noticed on the ETP Website.

ETP will make the modifications available to all persons who submit written comments or testify, or who request notification.

AVAILABILITY OF DOCUMENTS

The Panel has prepared an Initial Statement of Reasons for the proposed actions, and has compiled all information on which the actions were based. This statement, along with the express text of the proposed actions and the written information on which they were based, are available for inspection at the address shown above.

The Panel will prepare a Final Statement of Reasons at the conclusion of the public comment period. This final statement and the information on which it is based

will also be available for inspection at the address shown above.

This Notice of Proposed Rulemaking is posted on the ETP Website at www.etp.ca.gov. The Initial Statement of Reasons and the express text of the proposed actions are also posted on the ETP Website.

CONTACT PERSONS

Requests for copies of the express text of the proposed actions and the modified text (if any), and the Initial Statement of Reasons, should be directed to the contact person identified above. In addition, the “rulemaking file” of information on which the proposed actions are based is also available for inspection upon request.

GENERAL PUBLIC INTEREST

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

California Environmental Protection Agency
Office of Environmental Health Hazard
Assessment
Notice to Interested Parties

October 5, 2007

ANNOUNCEMENT OF PUBLICATION OF THE FINAL PUBLIC HEALTH GOAL FOR WATER-SOLUBLE POLYCHLORINATED BIPHENYLS (PCBS) EXPECTED TO BE FOUND IN DRINKING WATER

The Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental Protection Agency is announcing the availability of the final technical support document and responses to comments for the Public Health Goal (PHG) for water-soluble polychlorinated biphenyls (PCBs) expected to be found in drinking water. The first draft of this document was posted on the OEHHA Web site (www.oehha.ca.gov) on November 5, 2004 and a one-day public workshop was held on December 17, 2004 to discuss the scientific basis and recommendations in the draft technical support document. OEHHA follows the requirements set forth in Health and Safety Code, Sections 57003(a) and 116365, for conducting the workshop and obtaining public input. Following the workshop, OEHHA revised the document as appropriate, and made it available on August 4, 2006 for a 30-day

public review and scientific comment period. OEHHA has considered the comments from all interested parties at the workshop and during the public review and scientific comment periods, and finalized the document. The final document and responses to the major comments received are posted on the OEHHA Web site (www.oehha.ca.gov/water/phg/index.html).

The PHG technical support documents provide information on the health effects of contaminants in drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996 (Health and Safety Code Section 116365) requires OEHHA to develop PHGs based exclusively on public health considerations. PHGs published by OEHHA will be considered by the California Department of Health Services in setting drinking water standards (Maximum Contaminant Levels, or MCLs).

If you would like to receive further information on this announcement or have questions, please contact our office at (510) 622-3170 or the address below.

Thomas Parker (tparker@oehha.ca.gov)
Pesticide and Environmental Toxicology Branch
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency
Headquarters: 1001 I Street, 12th floor
Sacramento, California 95814

Mailing address: P.O. Box 4010
Sacramento, CA 95812-4010
Attention: PHG Project

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Final Report “Development of Health Criteria for School Site Risk Assessment Pursuant to Health and Safety Code Section 901(g): Child-Specific Reference Doses (chRDs) for School Site Risk Assessment: Atrazine and Deltamethrin.”

[10/05/07]

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency announces the availability of the final Report “Development of Health Criteria for School Site Risk Assessment Pursuant to Health and Safety Code Section 901(g): CHILD-SPECIFIC REFERENCE DOSES (chRDs) FOR SCHOOL SITE RISK ASSESSMENT—Atrazine and Deltamethrin.” Health and Safety Code (HSC), Section 901(g) requires the Office of Environmental Health Hazard Assessment (OEHHA), in consultation with the appropriate entities

within the California Environmental Protection Agency, to identify those chemical contaminants commonly found at school sites and determined by OEHHA to be of greatest concern based on child-specific physiological sensitivities. HSC 901(g) also requires OEHHA to annually evaluate and publish, as appropriate, numerical health guidance values or chRDs for those chemical contaminants until the contaminants identified have been exhausted.

In developing these chRDs, OEHHA has followed the requirements set forth in Health and Safety Code Section 57003 for receiving public input. The first draft document was posted on the OEHHA Website (www.oehha.ca.gov) in January 2006. A public workshop was held in February 2006 to discuss the scientific basis and recommendations in the draft report. After considering public comments and input from external peer review, OEHHA revised the document for additional public review in July 2007. The release of the final document is a culmination of this public input process.

If you would like to receive further information on this announcement or have questions, please contact our office at (916) 324-2829 or the address below or go to the OEHHA Website at www.oehha.ca.gov:

Mr. Leon Surgeon
Integrated Risk Assessment Branch
Office of Environmental Health Hazard Assessment
P.O. Box 4010
1001 I Street, MS-12B
Sacramento, California 95812-4010
FAX: (916) 322-9705

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**California Environmental Protection Agency
Office of Environmental Health
Hazard Assessment
Notice to Interested Parties**

October 5, 2007

**ANNOUNCEMENT OF RESCHEDULED
PUBLIC WORKSHOP**

**Rescheduling of Public Workshop on the Proposed
Public Health Goals for Molinate and
1,2,3-Trichloropropane in Drinking Water**

The Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental

Protection Agency previously announced the availability of the draft technical support documents for proposed Public Health Goals (PHGs) for the rice herbicide molinate and the solvent 1,2,3-trichloropropane (1,2,3-TCP) in drinking water. The draft documents were posted on the OEHHA Web site (www.oehha.ca.gov) concurrently with those announcements (September 7 and 14, 2007, respectively). OEHHA is soliciting comments on the draft reports. A public workshop had been announced for these chemicals on October 9, 2007.

Because of a scheduling problem, the Office is now announcing a rescheduling of the public workshop on both chemicals for November 26, 2007. The public workshop will be held at the Elihu Harris Building, 1515 Clay Street, Oakland, 94612, Room 15, 10 a.m.–12 noon, or until business is concluded. The October 9 workshop is cancelled.

OEHHA follows the requirements set forth in Health and Safety Code Sections 57003(a) and 116365 for conducting the workshop and receiving public input. The workshop is provided to encourage a dialogue between OEHHA scientists and the public, to discuss the scientific basis of the proposed PHGs, and to receive comments. Following the workshop, OEHHA will evaluate all the comments received, revise the documents as appropriate, and make them available for another 30-day comment period. After any subsequent revisions, the final documents will be posted on our Web site along with responses to the major comments from the public at the workshop and during the public review and scientific comment periods.

Oral and written comments received at the workshop will be considered during the revision of the draft technical support documents. Written comments must be received at the OEHHA address below by 5:00 p.m. on November 26, 2007, to be considered during this revision period for the documents.

The PHG technical support documents provide information on the health effects of contaminants in drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996 (Health and Safety Code Section 116365), requires OEHHA to develop PHGs based exclusively on public health considerations. PHGs published by OEHHA will be considered by the California Department of Health Services in setting drinking water standards (Maximum Contaminant Levels, or MCLs).

If you would like to receive further information on this announcement or have questions, please contact our office at (510) 622-3170 or the address below.

Mr. Thomas Parker (tparker@oehha.ca.gov)
Pesticide and Environmental Toxicology Branch
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency
Headquarters: 1001 I Street, 12th floor
Sacramento, California 95814
Mailing address: P.O. Box 4010, Sacramento, CA
95812-4010
Attention: PHG Project

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contractors in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P.O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse
Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P.O. Box 60
Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105
San Diego Physicians & Surgeons Hospital
446 26th Street
San Diego, CA
Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670
Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912
Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828
Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037
Vandergoot Equipment Co.
P.O. Box 925
Middletown, CA 95461

RULEMAKING PETITION DECISIONS

BOARD OF EQUALIZATION

NOTICE OF DECISION AS REQUIRED BY GOVERNMENT CODE SECTION 11340.7

On June 6, 2007, the California State Board of Equalization received a petition from Mr. Stephen H. Bennett requesting that the Board amend Property Tax Rule 462.060, *Change in Ownership — Life Estates and Estates for Years*, California Code of Regulations, Title 18, section 462.060. Mr. Bennett petitioned the Board to amend the Rule so that the transfer or termination of a life estate would give rise to only a rebuttable presumption that a change in ownership has occurred.

The Board's authority to adopt regulations governing local boards of equalization when equalizing and county assessors when assessing is found in subdivision (c) of Government Code section 15606.

The Board scheduled this matter for hearing on the Chief Counsel Matters agenda at its June 19, 2007 Board meeting. On June 8, 2007, the Board posted on the Internet a memorandum containing staff's recommendation with regard to the petition.

At its June 19, 2007 meeting, the Board voted to deny the petition in whole. That decision was based on the

Board's conclusion that the current version of the regulation is consistent with the Revenue and Taxation Code and recent appellate court decisions.

A hard copy of the petition may be requested by contacting Ms. Diane Olson, P.O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080; Telephone (916) 322-9569; Fax (916) 324-3984; E-mail Diane.Olson@boe.ca.gov.

Questions regarding this matter should be directed to Acting Assistant Chief Counsel Robert Lambert, Telephone (916) 324-6593, Fax (916) 323-3387, or E-mail Robert.Lambert@boe.ca.gov.

DEPARTMENT OF HEALTH CARE SERVICES

September 14, 2007

John R. Valencia, Esq.
Wilke, Fleury, Hoffelt, Gould, and Birney, LLP
Twenty-Second Floor
400 Capitol Mall Sacramento, Ca 95814

Subject: Petition for Rule Making for the Genetically Handicapped Persons (GHPP) Program

Dear Mr. Valencia:

The Department of Health Care Services is in receipt of your petition dated August 17, 2007, made on behalf of unspecified persons in California with glycosaminoglycan deposition diseases, to include such diseases in the list of genetically handicapping conditions eligible for services through the GHPP. You have requested that the Department amend Section 2932 of Title 17, California Code of Regulations to include these diseases pursuant to the authority in Section 125139 of the Health and Safety Code. Your specific request is that the following glycosaminoglycan deposition diseases (mucopolysaccharidoses) be covered by GHPP:

- mucopolysaccharidosis I
- mucopolysaccharidosis IH, Hurler syndrome
- mucopolysaccharidosis IS, Scheie syndrome
- mucopolysaccharidosis I H-S, Hurler-Scheie syndrome
- mucopolysaccharidosis II, Hunter syndrome
- mucopolysaccharidosis VI, Maroteaux-Lamy syndrome

You state that in California there are currently 34 persons in California with these conditions who are receiving one of the Federal Food and Drug Administration approved therapies for treatment of mucopolysaccharidoses. Of these individuals, you indicate that 15 are currently enrolled in the California Children's Services (CCS) Program. Based on current survival data for persons with these disease conditions you estimate that

one-third of the CCS clients may graduate to GHPP when they are twenty-one years old.

The GHPP provides comprehensive health care coverage to enrolled individuals, and would have indeterminate health care costs for each person with mucopolysaccharidosis beyond the cost of the enzyme replacement therapy which the Children's Medical Services Branch estimates costs approximately \$300,000 per year per person. There are no financial eligibility requirements for GHPP.

Some children with GHPP conditions who are over income for the CCS program are eligible for GHPP. Thus many of the individuals, currently receiving enzyme replacement therapy might be eligible for GHPP before reaching 21 years of age if mucopolysaccharidoses were added to the list of GHPP eligible medical conditions.

If as few as five persons with mucopolysaccharidoses enrolled in GHPP, the annual costs to the State General Fund (GF) for their enzyme replacement therapy alone would be \$1,500,000. Costs for ancillary comprehensive health care for these enrollees would be in addition to this amount. GHPP does not have funding to cover such costs in the Budget Act General Fund appropriation for GHPP services. Section 32.00 of the annual Budget Act expressly forbids the officers of a State Department from making expenditures in excess of an appropriation. Additionally, the Governor's policy for the prospective fiscal year 2008-09 budget cycle, states that a GF proposal to expand services to a greater share of the population, increase the level of service to existing populations, or that would initiate new services must be accompanied by an offsetting service reduction proposal or some other means to finance the proposal.

The Department is not aware of any services reduction that might offset the cost of providing GHPP services to persons with mucopolysaccharidoses or any other means of financing such services.

Therefore, in accordance with the provisions of Section 11340.7 of the Government Code the Department denies your petition. The Department's decision will be transmitted to the California Office of Administrative Law for publication in the California Regulatory Notice Register.

If you have any questions, please contact Harvey Fry, Assistant Branch Chief, Children's Medical Services Branch at (916) 327-2435.

Sincerely,

Original Signed by Marian Dalsey, M.D., M.P.H.

Marian Dalsey, M.P.H., M.D., Chief
Children's Medical Services Branch

cc: See Next Page

cc: Luis Rico, Chief
Systems of Care Division
Department of Health Care Services
1501 Capitol Avenue
Sacramento, Ca 95814

Sharon Stevenson, Chief Counsel
Department of Health Care Services
MS 0011
1501 Capitol Avenue
Sacramento, Ca 95814

DISAPPROVAL DECISIONS

DECISIONS OF DISAPPROVAL OF REGULATORY ACTIONS

Printed below are the summaries of Office of Administrative Law disapproval decisions. Disapproval decisions are available at www.oal.ca.gov. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339, (916) 323-6225 — FAX (916) 323-6826. Please request by OAL file number.

AIR RESOURCES BOARD

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW

In re:

AIR RESOURCES BOARD

REGULATORY ACTION

Title 13, California Code of Regulations

Amend sections 1968.2, 1968.5, 2035, 2037, 2038

DECISION OF DISAPPROVAL OF REGULATORY
ACTION

(Gov. Code, sec. 11349.3)

OAL File No. 07-0810-01S

DECISION SUMMARY

This proposed regulatory action submitted by the Air Resources Board (ARB) proposes to amend Title 13 of the California Code of Regulations (CCR) to extensively update the On-Board Diagnostic II program (OBD II). The proposed regulatory action includes highly

technical revisions to OBD II testing processes and warranty mandates.

On September 24, 2007, the Office of Administrative Law (OAL) notified the Air Resources Board of the disapproval of the above-referenced regulatory action. OAL disapproved the regulations for failure to comply with Administrative Procedure Act (APA) procedural requirements.

DISCUSSION

Regulations adopted by ARB must generally be adopted pursuant to the rulemaking provisions of the Administrative Procedure Act (Gov. Code, secs. 11340 through 11361). Any regulatory action a state agency adopts through the exercise of quasi-legislative power delegated to the agency by statute is subject to the requirements of the APA, unless a statute expressly exempts or excludes the action from compliance with the APA. (See Gov. Code, sec. 11346.) No exemption or exclusion applies to the regulatory action here under review. Consequently, before these regulations may become effective, the regulations and the rulemaking record must be reviewed by OAL for compliance with the procedural requirements and the substantive standards of the APA, in accordance with Government Code section 11349.1.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD

ATCM for Chrome Plating and Chromic Acid Anodizing

In this regulatory action, the Air Resources Board amends its Airborne Toxic Control Measure for Chromium Plating and Chromic Acid Anodizing. These regulations are adopted under Health and Safety Code sections 39650 through 39675 (particularly sections 39665 and 39666). The Board has previously identified Hexavalent Chromium as a Toxic Air Contaminant.

Title 17

California Code of Regulations

ADOPT: 93201.1, 93102.2, 93102.3, 93102.4, 93102.5, 93102.6, 93102.7, 93102.8, 93102.9, 93102.10, 93102.11, 93102.12, 93102.13, 93102.14, 93102.15, 93102.16 AMEND: 93102

Filed 09/24/2007

Effective 10/24/2007

Agency Contact: Amy Whiting (916) 322-6533

CALIFORNIA ARCHITECTS BOARD**Fees**

California Architects Board proposes amendment to Title 16, section 2649, amending examination sections and related fees for licensure of landscape architects. Amendments include fee increases to be effective on October 3, 2007 pursuant to Government Code section 11343.4(b).

Title 16

California Code of Regulations

AMEND: 2649

Filed: 09/20/2007

Effective: 11/02/2007

Agency Contact: Ethan Mathes (916) 575-7233

CALIFORNIA HORSE RACING BOARD**Authorized Medication**

This rulemaking action increases the allowable level of Flunixin and clenbuteral in the blood test levels of race horses. [The initial allowable level for Flunixin was 20 nanograms per milliliter. The Board is increasing it to 50.] The amendment also establishes an allowable level of clenbuteral in blood tests of 25 picograms per milliliter.

Title 4

California Code of Regulations

AMEND: 1844

Filed 09/20/2007

Effective 10/22/2007

Agency Contact: Harold Coburn (916) 263-6397

DEPARTMENT FOOD AND AGRICULTURE**Oak Mortality Disease Control**

This Certificate of Compliance makes permanent the prior emergency regulatory action (OAL file no. 07-0301-01E) that modified the existing oak mortality disease control regulation by establishing 12 plants as additional bole hosts covered by the regulation, changing the regulatory status of two plant genera as hosts being covered by the regulation (the entire genera of Kal-

mia and Pieris including all species, hybrids and cultivars), and adding four plant species to the list of associated articles (nursery stock).

Title 3

California Code of Regulations

AMEND: 3700(c)

Filed 09/19/2007

Effective 09/19/2007

Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF OF FOOD AND**AGRICULTURE****Oriental Fruit Fly Eradication Area**

This emergency regulatory action establishes Sacramento County as an eradication area for the pest "Bactrocera dorsalis" (Oriental fruit fly).

Title 3

California Code of Regulations

AMEND: 3591.2(a)

Filed 09/25/2007

Effective 09/25/2007

Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF OF FOOD AND**AGRICULTURE****Light Brown Apple Moth Eradication Area**

This is a certification of an emergency regulatory action (OAL Number 07-0319-02 E) designating the entire counties of Alameda and Contra Costa as "eradication areas" with respect to the light brown apple moth (*Epiphyas postvittana*). This regulatory section identifies the pest, its hosts (almost 6 pages of California plants), possible carriers of the pest (i.e. farm equipment and greenwaste), as well as the means and methods of eradication of the pest.

Title 3

California Code of Regulations

ADOPT: 3591.20

Filed 09/24/2007

Effective 09/24/2007

Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF INSURANCE**Health Care Language Assistance Program**

This is the resubmission of an action that adopts regulations to make specific the obligation of a health insurer under Insurance Code sections 10133.8 and 10133.9, to develop a language assistance program and provide translation of documents and interpretation assistance to insured persons who have limited English proficiency in accordance with the program.

Title 10
California Code of Regulations
ADOPT: 2538.1, 2538.2, 2538.3, 2538.4, 2538.5,
2538.6, 2538.7, 2538.8
Filed 09/19/2007
Effective 10/19/2007
Agency Contact: Elena Fishman (916) 492-3507

FAIR POLITICAL PRACTICES COMMISSION
Executive Director Subpoena Authority

This action concerns handling complaints submitted to the Commission for possible violations of the Political Reform Act relating to any state agency, state official, state election, state lobbyist, or state legislative or administrative action. The action is submitted for filing with the Secretary of State and printing only.

Title 2
California Code of Regulations
ADOPT: 18361 AMEND: 18360, 18361.7
Filed 09/24/2007
Effective 10/24/2007
Agency Contact:
Adrianne Korchmaros (916) 322-5662

FAIR POLITICAL PRACTICES COMMISSION
Campaign Filing Schedule for 2-5-08 Primary

This action concerns Campaign Filing Requirements for the February 5, 2008 Statewide Election. This action is submitted for filing with the Secretary of State and printing only.

Title 2
California Code of Regulations
ADOPT: 18420.5
Filed 09/24/2007
Effective 10/24/2007
Agency Contact:
Adrianne Korchmaros (916) 322-5662

FAIR POLITICAL PRACTICES COMMISSION
Reporting Expenditures for Ballot Measures

The Fair Political Practices Commission is adopting section 18466, title 2, California Code of Regulations, entitled "State Ballot Measure Contributions and Expenditures; Online Reports".

Title 2
California Code of Regulations
ADOPT: 18466
Filed 09/20/2007
Effective 10/22/2007
Agency Contact:
Virginia Latteri-Lopez (916) 322-5660

FAIR POLITICAL PRACTICES COMMISSION
Candidate Controlled Ballot Measures Committees

The Fair Political Practices Commission is repealing section 18530.9, title 2, California Code of Regulations, entitled "Contributions to Candidate Controlled Ballot Measure Committees."

Title 2
California Code of Regulations
REPEAL: 18530.9
Filed 09/20/2007
Effective 10/22/2007
Agency Contact:
Virginia Latteri-Lopez (916) 322-5660

FISH AND GAME COMMISSION
Waterfowl Hunting

This regulatory action deals with waterfowl hunting and also concurrence with federal regulations.

Title 14
California Code of Regulations
AMEND: 502, 509
Filed 09/19/2007
Effective 09/19/2007
Agency Contact: Sherrie Koell (916) 653-4899

SUPERINTENDENT OF PUBLIC INSTRUCTION
California State Special Schools for the Deaf or Blind or State Diagnostic Centers

This regulatory action revises a large number of rules governing employment of teaching staff at the California School for the Deaf, Fremont, California School for the Deaf, Riverside, the California School for the Blind (Fremont), the Diagnostic Center, North (Fremont), the Diagnostic Center, Central (Fresno), and the Diagnostic Center, South (Los Angeles).

Title 5
California Code of Regulations
ADOPT: 17604.1, 17605.1, 17624, 17630.1, 17638, 17639, 17643, 17644, 17650 AMEND: 17600, 17601, 17602, 17603, 17604, 17605, 17606, 17607,

17608, 17609, 17625, 17626, 17627, 17628, 17629,
17630.2, 17631, 17632, 17640, 17641, 17642,
17646, 17648 REPEAL: 17633, 17634, 17645,
17647, 17649
Filed 09/24/2007
Effective 10/24/2007
Agency Contact: Connie Diaz (916) 319-0584

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN APRIL 25, 2007 TO
SEPTEMBER 26, 2007**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

07/09/07 AMEND: 270
06/28/07 AMEND: 2616

Title 2

09/24/07 ADOPT: 18420.5
09/24/07 ADOPT: 18361 AMEND: 18360,
18361.7
09/20/07 REPEAL: 18530.9
09/20/07 ADOPT: 18466
09/11/07 ADOPT: 18440
09/10/07 AMEND: 1183.13
09/04/07 ADOPT: 54700
08/31/07 AMEND: 18109, 18204.5, 18208.5,
18215.2, 18228, 18236, 18241, 18306,
18315, 18323, 18325, 18350, 18404.2,
18410, 18416, 18429, 18432, 18438,
18457, 18500, 18502, 18502.1, 18502.2,
18519.4, 18522, 18526.1, 18530.1,
18531.1, 18531.3, 18531.4, 18532,
18536.1, 18536.2, 18538, 18538.2,
18541, 18564, 18573, 18580, 18585,
18586, 18587, 18588, 18590, 18616.5,
18618, 18619, 18620, 18621, 18622,
18626, 18650, 18700.1, 18702.6,
18704.3, 18707.3, 18720, 18725, 18726,
18726.1, 18726.2, 18726.3, 18726.4,
18726.5, 18726.6, 18726.7, 18726.8,
18727, 18760, 18902, 18930.1, 18931,
18935, 18940.1, 18950.2, 18954

08/31/07 ADOPT: 1859.180, 1859.181, 1859.182,
1859.183, 1859.184, Form SAB 50-11
AMEND: 1859.2, 1859.51, 1859.61,
1859.75.1, 1859.81, 1859.81.1,
1859.81.2, 1859.103, 1859.104,
1859.202, 1866, Form SAB 50-04, Form
SAB 50-06
08/03/07 AMEND: 58800
08/02/07 ADOPT: 1700
07/18/07 ADOPT: 7288.0, AMEND: 7288.0,
7288.1, 7288.2, 7288.3
07/18/07 AMEND: 18361.2, 18361.4
07/18/07 AMEND: 1859.2, 1859.51, 1859.61,
1859.81, 1859.202, 1866
07/17/07 AMEND: 1859.2
07/02/07 ADOPT: 18531.62 AMEND: 18544,
18545
07/02/07 ADOPT: 1859.302, 1859.324.1,
1859.330 AMEND: 1859.302, 1859.318,
1859.320, 1859.321, 1859.322,
1859.323, 1859.323.1, 1859.323.2,
1859.324, 1859.326, 1859.328, 1859.329
06/20/07 ADOPT: 1859.106.1 AMEND: 1859.106
06/15/07 AMEND: div. 8, ch. 111, sec. 59560
06/13/07 ADOPT: 20108, 20108.1, 20108.12,
20108.15, 20108.18, 20108.20,
20108.25, 20108.30, 20108.35,
20108.36, 20108.38, 20108.40,
20108.45, 20108.50, 20108.51,
20108.55, 20108.60, 20108.65,
20108.70, 20108.71, 20108.75, 20108.80
REPEAL: 20108.37
05/23/07 ADOPT: 20108, 20108.1, 20108.12,
20108.15, 20108.18, 20108.20,
20108.25, 20108.30, 20108.35,
20108.36, 20108.38, 20108.40,
20108.45, 20108.50, 20108.51,
20108.55, 20108.60, 20108.65,
20108.70, 20108.71, 20108.75, 20108.80
05/21/07 AMEND: 18402
05/17/07 ADOPT: 1859.70.4, 1859.71.6,
1859.77.4, 1859.162.1, 1859.162.2,
1859.162.3, 1859.163.4, 1859.163.5,
1859.163.6, 1859.163.7, 1859.169.1
AMEND: 1859.2, 1859.51, 1859.60,
1859.61, 1859.70.3, 1859.71, 1859.78.9,
1859.83, 1859.93.2, 1859.160, 1859.161,
1859.162, 1859.163.1, 1859.163.2,
1859.163.3, 1859.164, 1859.164.1,
1859.164.2, 1859.165, 1859.166,

	1859.167,1859.167.1, 1866.4, 1866.13 REPEAL: 1859.162.1	05/03/07	ADOPT: 3035 REPEAL: 3035, 3035.1, 3035.2, 3035.3, 3035.4, 3035.5, 3035.6, 3035.7,3035.8,3035.9
05/17/07	AMEND: 52900		
05/14/07	AMEND: 599.664	04/25/07	AMEND: 3433(b)
05/08/07	ADOPT: 1185.2, 1185.3, 1185.4 AMEND: 1185, 1185.01 (renumbered to 1185.1), 1185.02 (renumbered to 1185.5), 1185.03 (renumbered to 1185.6), 1185.1 (renumbered to 1185.7)	Title 4	
05/08/07	AMEND: div. 8, ch. 48, sec. 53700	09/20/07	AMEND: 1844
04/30/07	AMEND: 1859.124.1	09/04/07	AMEND: 12205.1, 12225.1
04/25/07	AMEND: 1859.83, 1859.202, 1866	05/30/07	AMEND: 1481
		05/08/07	AMEND: 1433
		05/07/07	AMEND: 1606
Title 3		Title 5	
09/25/07	AMEND: 3591.2(a)	09/24/07	ADOPT: 17604.1, 17605.1, 17624, 17630.1, 17638, 17639, 17643, 17644, 17650 AMEND : 17600, 17601, 17602, 17603, 17604, 17605, 17606, 17607, 17608, 17609, 17625, 17626, 17627, 17628, 17629, 17630.2, 17631, 17632, 17640, 17641, 17642, 17646, 17648 REPEAL: 17633, 17634, 17645, 17647, 17649
09/24/07	ADOPT: 3591.20	09/10/07	ADOPT: 19828.2, 19829.5, 19830.1, 19837.1, 19838, 19846 AMEND: 19816, 19816.1, 19828.1, 19830, 19837, 19854
09/19/07	AMEND: 3700(c)	08/27/07	ADOPT: 9517.2
09/17/07	AMEND: 3406(b)	08/23/07	AMEND: 42000, 42002, 42003, 42005, 42006, 42007, 42008, 42009, 42010, 42011, 42012, 42013, 42018, 42019
09/12/07	AMEND: 3700(c)	08/16/07	ADOPT: 18096 AMEND: 18078, 18081, 18084, 18085, 18089, 18090, 18100, 18107
09/11/07	AMEND: 3591.5(a)	08/13/07	ADOPT: 17660, 17661, 17662, 17663, 17664, 17665, 17666, 17667
09/11/07	AMEND: 3433(b)	08/09/07	AMEND: 80124, 80125
09/10/07	ADOPT: 1391, 1391.1	07/31/07	ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6, 11987.7
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08/01/07	AMEND: 3340.16, 3340.42, 3392.2	07/30/07	AMEND: 1591
07/16/07	AMEND: 2670	07/26/07	AMEND: 1586
07/12/07	AMEND: 160	07/16/07	AMEND: 1603
07/11/07	AMEND: 68.3, 68.4, 88, 88.1, 88.2, 89, 99	07/10/07	AMEND: 1660
07/10/07	AMEND: 4114	07/02/07	AMEND: 17952
07/03/07	ADOPT: 4152.1	06/20/07	ADOPT: 25137-14
06/22/07	AMEND: 1399.170.11	06/05/07	AMEND: 1668
06/20/07	AMEND: 3303.1		
06/15/07	AMEND: 2070, 2071		
06/12/07	AMEND: 1325, 1339, 1344, 1350.3, 1355.35		
05/30/07	ADOPT: 980.2, 980.3 AMEND: 980.1		
05/23/07	AMEND: 1706.2		

06/04/07 ADOPT: 1671.1
 05/17/07 AMEND: 1802
 05/15/07 AMEND: 1703
 04/25/07 AMEND: 1620

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08/22/07 AMEND: 1602, 1604, 1606, 1607
 07/03/07 ADOPT: 1233.5, 1234, 1236.5, 1311, 1346, 1349, 2508 AMEND: 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1341, 1342, 1343, 1344, 1345, 1347, 1348, 1350, 1351, 2501, 2502, 2503, 2504, 2505, 2506, 2507 REPEAL: 1340
 06/11/07 AMEND: 4.1

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09/18/07 ADOPT: 64432.3, 64432.8 AMEND: 64413.1, 64431, 64432, 64447.2, 64463.1, 64465, 64481 REPEAL: 64450
 09/06/07 ADOPT: 66270.69.2 AMEND: 66270.67 (renumber to 66270.69.5), 66270.69 (renumber to 66270.69.1), 67800.1 (renumber to 66270.69.3), 67800.5 (renumber to 66270.69.4)
 09/05/07 AMEND: 4427
 08/31/07 AMEND: 12805
 08/08/07 ADOPT: 96040, 96041, 96042, 96043, 96044, 96045, 96046, 96050 AMEND: 96000
 07/18/07 AMEND: 4401.5 REPEAL: 4401, 4402, 4432, 4441
 07/18/07 ADOPT: 69109 AMEND: 69100, 69101, 69102, 69103, 69104, 69105, 69106, 69107, 69108
 07/16/07 ADOPT: 50966 AMEND: 50961, 50962
 06/18/07 ADOPT: 67386.5, 67386.6, 67386.7, 67386.8, 67386.9, 67386.10, 67386.11, 67386.12 AMEND: 66261.9.5, Appendix XII, 67386.1, 67386.2, 67386.3, 67386.4

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08/07/07 ADOPT: 86500, 86501, 86505, 86505.1, 86506, 86507, 86508, 86509, 86510, 86511, 86512, 86517, 86518, 86519, 86519.1, 86519.2, 86520, 86521, 86522, 86523, 86524, 86526, 86527, 86528, 86529, 86531, 86531.1, 86531.2, 86534,

86535, 86536, 86540, 86542, 86544, 86545, 86546, 86552, 86553, 86554, 86555, 86555.1, 86558, 86559, 86561, 86562, 86563, 86564, 86565, 86565.2, 86565.5, 86566, 86568.1, 86568.2, 86568.4, 86570, 86572, 86572.1, 86572.2, 86574, 86575, 86576, 86577, 86578, 86578.1, 86579, 86580, 86586, 86587, 86587.1, 86587.2, 86588 AMEND: 11-400c, 11-402, 45-101(c), 45-202.5, 45-203.4, 45-301.1

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09/04/07 AMEND: 2053
 08/27/07 AMEND: 2200, 2200.2, 2200.3, 2200.4, 2200.6 REPEAL: 2201
 08/21/07 ADOPT: 3979.2
 08/20/07 ADOPT: 3979.3
 08/16/07 ADOPT: 3939.26
 08/15/07 AMEND: 3939.10
 08/14/07 ADOPT: 3939.25
 08/09/07 ADOPT: 3949.4
 08/02/07 ADOPT: 3967
 06/27/07 ADOPT: 3002
 06/19/07 ADOPT: 3949.3
 05/21/07 ADOPT: 499.4.1.1, 499.4.1.2, 499.4.2, 499.6.3 AMEND: 499.1, 499.2, 499.3, 499.4, 499.4.1, 499.5, 499.6, 499.6.1, 499.7, 499.8 REPEAL: 499.6.2
 05/18/07 ADOPT: 3958
 05/18/07 ADOPT: 3959
 05/01/07 AMEND: 645
 04/25/07 AMEND: 3983

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07/06/07 AMEND: 5060, 5061, 5062, 5064, 5520, 5521, 5530, 5540.1, 5575
 05/23/07 AMEND: 6932

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08/21/07 ADOPT: 20939 AMEND: 20918, 20919, 20920, 29021, 20923, 20925, 20931, 20932, 20933, 20934, 20937 REPEAL: 20919.5

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07/30/07 AMEND: 47-201, 47-401
 06/26/07 AMEND: 40-118, 43-103, 44-209, 80-301, 82-808
 06/25/07 AMEND: 47-110 and 47-301